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03/25/2026**



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

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL NEW, AMENDED, REPEALED RULES

The following is a list of the rules which have been added, amended, or repealed since the last update to these rules.

Online Act and Rules of the Council – February 2026

- 881.2. Definitions (*amended*)
- 882.42. Ineligibility Due to Criminal History (*amended*)
- 882.60. Special Provisions Applying to Military Service Members, Veterans, and Spouses (*amended*)
- 882.61. Special Licensing Provisions for Service Members and Military Spouses (*amended*)
- 884.11. Informal Conferences (*amended*)
- 885.1. Executive Council Fees (*amended*)

Online Act and Rules of the Council – October 2025

- 882.1. Application Process (*amended*)
- 882.2. General Application File Requirements (*amended*)
- 882.21. License Statuses (*amended*)

Online Act and Rules of the Council – June 2025

- 882.50. Continuing Education and Audits (*amended*)
- 884.10. Investigation of Complaints (*amended*)
- 885.1. Executive Council Fees (*amended*)

Online Act and Rules of the Council – February 2025

- 881.20. Rulemaking by the Executive Council (*amended*)

Online Act and Rules of the Council – October 2024

- 882.14. Petition for Waiver or Remediation of Deficiency (*amended*)
- 882.21. License Statuses (*amended*)
- 884.10. Investigation of Complaints (*amended*)
- 884.60. Witness Fees (*repealed*)
- 884.60. Depositions, Subpoenas, and Witness Expenses (*new*)
- 885.1. Executive Council Fees (*amended*)

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

For any official listing of a rule, a licensee, applicant, or member of the public may consult the Texas Administrative Code on the Secretary of State's website:

<http://www.sos.state.tx.us/tac/>. When accessing this website: (1) click on the TAC viewer, (2) scroll down and click on Title 22 Examining Boards, (3) scroll down and click on Part 41, Texas Behavioral Health Executive Council. To view rules that have been proposed but not finally adopted by the Board, access the following website:

<https://texreg.sos.state.tx.us/public/regviewctx>

**TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL
COUNSELORS
NEW, AMENDED, REPEALED RULES**

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

Online Act and Rules of the Board – January 2026

- 681.53. Child Custody Evaluations, Adoption Evaluations and Evaluations in Contested Adoptions (*amended*)
- 681.114. Licensing of Military Service Members, Military Veterans, and Military Spouses (*amended*)

Online Act and Rules of the Board – June 2025

- 681.72. Required Application Materials (*amended*)
- 681.140. Requirements for Continuing Education (*amended*)

Online Act and Rules of the Board – January 2025

- 681.37. Billing and Financial Arrangements (*amended*)
- 681.41. General Ethical Requirements (*amended*)
- 681.44. Drugs and Alcohol Use (*repealed*)
- 681.47. Assumed Names (*repealed*)
- 681.49. Advertising and Announcements (*amended*)
- 681.81. Academic Requirements (*amended*)
- 681.92. Experience Requirements (*amended*)
- 681.101. Examinations (*amended*)
- 681.204. Other Actions (*amended*)
- 681.205. Schedule of Sanctions (*amended*)

Online Act and Rules of the Board – February 2024

- 681.72. Required Application Materials (*amended*)

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

For any official listing of a rule, a licensee, applicant, or member of the public may consult the Texas Administrative Code on the Secretary of State's website: <http://www.sos.state.tx.us/tac/>. When accessing this website: (1) click on the TAC viewer, (2) scroll down and click on Title 22 Examining Boards, (3) scroll down and click on Part 30, Texas State Board of Examiners of Professional Counselors. To view rules that have been proposed but not finally adopted by the Board, access the following website: <https://texreg.sos.state.tx.us/public/regviewctx>.

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TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL RULES

GENERAL PROVISIONS

Subchapter A. General Provisions.

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

Adopted to be effective: September 1, 2020

881.2. Definitions.

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

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

*Adopted to be effective: September 1, 2020
Amended: March 18, 2026*

881.3. Council and Board Meetings.

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

Adopted to be effective: September 1, 2020

881.4. Council Member Terms.

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

Adopted to be effective: September 1, 2020

881.5. Conflicts of Interest and Recusals.

- (a) A Council or board member who has any personal or professional interest that might reasonably tend to influence the discharge of the member's duties in a matter pending before the agency, shall disclose that conflict in an open meeting called and held in compliance with Chapter 551 of the Government Code. Should the required disclosure relate to a matter to be considered during a closed meeting, the member shall disclose the conflict during the closed meeting. A Council or board member may neither vote nor otherwise participate in any discussion or decision on a pending matter where the member's personal or professional interest might reasonably tend to influence the discharge of the member's duties. Any conflict disclosed by a board member shall be entered in the minutes or certified agenda of the meeting.
- (b) An individual who has any personal or professional interest that might reasonably tend to influence the discharge of the individual's duties while serving on a committee, temporary suspension or disciplinary review panel, or workgroup, shall disclose that conflict to the committee, panel, or workgroup, as well as to the Executive Director. The individual may neither vote nor otherwise participate in any discussion or decision on a pending matter where the individual's personal or professional interest might reasonably tend to influence the discharge of the individual's duties. Any conflict shall be entered in any minutes or notes kept by the committee, panel, or workgroup.
- (c) A Council or board member may not vote or otherwise participate in any discussion or decision conducted during a meeting held in compliance with Chapter 551 of the Government Code regarding a complaint or eligibility proceeding previously heard by the member while serving on a temporary suspension panel or disciplinary review panel. A Council or board member who is disqualified under this subsection shall be recused from any voting or discussions on the matter, and the recusal shall be entered in the minutes or certified agenda of the meeting.
- (d) Any individual who is required to make a disclosure or is recused or restricted from voting or participating in some manner under this rule, shall refrain from influencing or attempting to influence the discussion or decision on a matter in which the individual is prohibited from participating. The presiding officer or Executive Director may take reasonable steps to enforce this requirement, including

requesting that the individual leave the room before beginning or continuing with a meeting, hearing, discussion, or vote.

- (e) A disclosure required by this rule must be made as soon as possible once an individual becomes aware of facts giving rise to a duty to take action under this rule. Any information received by a Council or board member or agency staff that might reasonably lead one to believe that an individual has a duty to take action under this rule must be sent to the Executive Director, who shall then forward the information to the individual.
- (f) Except as provided for in subsection (c) of this section, this rule shall not operate to preclude a Council member from voting or otherwise participating in any discussion or decision due solely to a member's service on an underlying member board.
- (g) It is presumed that the judgment of a reasonable person subject to this rule would not be materially affected because the individual holds a license issued by this agency or one of its member boards.
- (h) A person does not have an interest which is in conflict with the proper discharge of duties contemplated under this rule if any benefit or detriment accrues to the person, or any individual or group with whom the person is associated, to no greater extent than any other similarly situated person.

Adopted to be effective: September 1, 2020

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

Adopted to be effective: September 1, 2020

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

Adopted to be effective: September 1, 2020

881.8. Former Council or Board Members.

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

Adopted to be effective: September 1, 2020

881.9. Prohibition Against Dual Office Holding.

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

Adopted to be effective: September 1, 2020

881.10. Conflict Between Other Laws and Council.

- (a) In the event of a conflict between a Council rule and the state or federal constitution, a state or federal statute, or a rule, guideline, or requirement promulgated by a federal office or agency, the state or federal law, guideline, or requirement shall control.
- (b) In the event of a conflict between a rule in 22 TAC Part 41 and Parts 21, 30, 34, and 35; the rules in Part 41 shall prevail.

Adopted to be effective: September 1, 2020

881.11. Access to Agency Records by Appointed Members.

- (a) Each member of the Council is entitled to access all information and records written, produced, collected, assembled, or maintained by the Council or a member board, including confidential information. The access

granted under this subsection is limited to official agency business only.

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

Adopted to be effective: September 1, 2020

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

Adopted to be effective: September 1, 2020

881.13. Conduct and Decorum.

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

Adopted to be effective: September 1, 2020

Subchapter B. Rulemaking.

881.20. Rulemaking by the Executive Council.

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

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

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

so, whether the reduction would be more harmful to the public than the harm that might result from the absence of the proposed rule; and

- (6) Whether the residents of the state are or may be effectively protected by other means.

Adopted to be effective: September 1, 2020

Amended: March 17, 2025

881.21. Petition for Rulemaking.

- (a) Any interested person may petition for rulemaking in accordance with §2001.021 of the Government Code by submitting to the Council a written request for the adoption of a rule or rule change. The written request must contain a return mailing address for the agency's response.
- (b) The written request must, at a minimum, set forth or identify the rule the petitioner wants the Council to adopt or change, reasons why the petitioner believes the requested rulemaking is necessary, and include a copy of the proposed rule or any proposed changes with deletions crossed through and additions underlined. Additionally, the written request must affirmatively show that the requestor qualifies as an interested person under this rule. Requests which do not affirmatively show that the requestor qualifies as an interested person under this rule may be denied.
- (c) The written request should also address the economic cost to persons required to comply with the rule, the effects of the rule on small or micro-businesses or rural communities, and the impact the rule would have on local employment or economics, if such information can be derived from available sources without undue cost or burden.
- (d) A petition for rulemaking which involves any of those matters set forth in §507.153(a) of the Occupations Code will be submitted by agency staff to the appropriate member board for initial review and consideration.
- (e) The Council will respond to a written request for adoption of a rule from an interested person in accordance with §2001.021 of the Government Code.
- (f) The term "interested person" as used in this rule, shall have the same meaning as that assigned by §2001.021(d) of the Government Code.

Adopted to be effective: September 1, 2020

Amended: February 9, 2021; September 19, 2021

Subchapter C. Personnel.

881.30. Executive Director.

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

Adopted to be effective: September 1, 2020

881.31. Agency Staff Training and Education.

- (a) In accordance with the State Employee Training Act found at Government Code, Chapter 656, Subchapter C, agency staff may be permitted or required to attend training or education programs if those programs relate to the employee's duties or prospective duties, materially aid effective administration of the agency's functions, and serve an important public purpose.
- (b) The Council's Executive Director shall be eligible to attend training and education programs, and shall determine which other employees will be permitted or required to attend training.
- (c) Employees who receive training must utilize the training opportunity to prepare for technological and legal

developments facing the agency, or to increase professional capabilities or competence directly related to the work of the agency.

- (d) An employee, prior to receiving training for three or more months, during which the employee does not perform the employee's regular duties, must enter into a written agreement with the Council to comply with the requirements of §656.103(a) of the Government Code. Employees who fail or refuse to enter into such an agreement shall not be permitted to attend training lasting three or more months.
- (e) The Council shall pay the costs and expenses related to approved training in accordance with the State Employee Training Act, the Comptroller's rules and regulations, and the Council's own policies relating to employee reimbursement.

Adopted to be effective: September 1, 2020

881.32. Sick Leave Pool.

- (a) The Council hereby establishes a sick leave pool to assist employees and their immediate families in dealing with catastrophic illness or injury that forces them to exhaust all accrued sick leave.
- (b) The Council's sick leave pool shall be administered by the Executive Director in accordance with Chapter 661 of the Government Code, the rules and regulations of the Employees Retirement System of Texas, and the Texas Human Resources Statutes Inventory manual published by the Texas State Auditor's Office.
- (c) The Executive Director shall develop and prescribe procedures for the operation of the sick leave pool, and include such procedures in the Council's personnel manual.

Adopted to be effective: September 1, 2020

881.33. Family Leave Pool.

- (a) The Council hereby establishes a family leave pool to provide eligible employees more flexibility in bonding with and caring for children during a child's first year following birth, adoption, or foster placement, and to care for themselves or family members suffering from serious illness, including pandemic-related illnesses or complications caused by a pandemic.
- (b) The Council's family leave pool shall be administered by the Executive Director in accordance with Chapter 661 of the Government Code and the Texas Human Resources Statutes Inventory manual published by the Texas State Auditor's Office.

- (c) The Executive Director shall develop and prescribe procedures for the operation of the family leave pool and include such procedures in the Council's personnel manual.

Adopted to be effective: February 27, 2022

Subchapter D. Contracts and Procurement.

881.40. Agency Contracts and Purchasing.

- (a) In accordance with §2155.076 of the Government Code, the Council adopts by reference the rules of the Comptroller of Public Accounts regarding purchasing protest procedures set forth in 34 TAC, Part 1, Chapter 20, Subchapter F, Division 3. All vendor protests under this rule must be submitted to the Council's Chief Financial Officer, who shall initiate a review of the protest. Any appeal to a determination of a protest by the Chief Financial Officer shall be to the Executive Director, who may elect to submit the appeal to the Council for final determination. The Council shall maintain all documentation on the purchasing process that is the subject of a protest or appeal in accordance with the Council's retention schedule.
- (b) In accordance with §2156.005 of the Government Code, the Council adopts by reference the rules of the Comptroller of Public Accounts regarding bid opening and tabulation set forth in 34 TAC, Part 1, Chapter 20, Subchapter C, Division 2.
- (c) In accordance with §2260.052 of the Government Code, the Council adopts by reference the rules of the Office of the Attorney General in 1 TAC Part 3, Chapter 68 (relating to Negotiation and Mediation of Certain Contract Disputes). The rules set forth a process to permit parties to structure a negotiation or mediation in a manner that is most appropriate for a particular dispute regardless of the contract's complexity, subject matter, dollar amount, or method and time of performance.
- (d) In accordance with §2261.202 of the Government Code, the Executive Director shall be responsible for monitoring agency contracts and for monitoring agency compliance with all applicable laws governing agency contracting. The Executive Director may delegate those duties necessary to carry out this responsibility to other agency staff who report directly to the Executive Director.

Adopted to be effective: September 1, 2020

881.41. Use of Historically Underutilized Businesses (HUBS). In accordance with §2161.003 of the Government Code, the Council

adopts by reference the rules of the Comptroller of Public Accounts
in 34 TAC Part 1, Chapter 20, Subchapter D, Division 1.

Adopted to be effective: September 1, 2020

APPLICATIONS AND EXAMINATIONS

Subchapter A. License Applications.

882.1. Application Process. Applications for licensure are processed in the following manner:

- (1) Applicants must submit for review an official application form, the corresponding application fee, and all information required by law to the Council. The responsibility for submitting a complete application resides solely with the applicant. An application submitted with the incorrect fee amount will be returned to the applicant.
- (2) Applications are reviewed in the order in which they are received, unless the applicant qualifies for expedited processing under §55.005 of the Occupations Code. Applicants who qualify for expedited processing will have their applications processed as soon as practicable. The Council will notify applicants of any deficiency in their application.
- (3) Applications for licensure which are incomplete will be held open for 180 days from the date of receipt, after which, if still incomplete, they will expire. If licensure is sought after an application has expired, a new application and filing fee must be submitted.
- (4) Applications containing a substantive problem with an applicant's qualifications that cannot be resolved by reviewing staff shall proceed through the following chain of review until such matter is resolved to the agency's satisfaction:
 - (A) Reviewing staff's immediate supervisor;
 - (B) Licensing Manager;
 - (C) Executive Director;
 - (D) Committee established by the member board for the profession charged with addressing application or licensing matters; and
 - (E) Full member board for the profession
- (5) Once an application is complete, the applicant is either approved or denied to sit for any required examinations, or approved or denied licensure. Agency staff will send out a letter reflecting the agency's determination and instructions for the next steps needed, if any.

Adopted to be effective: September 1, 2020

Amended: November 9, 2025

882.2. General Application File Requirements.

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

application process from a credentials bank that utilizes primary source verification.

- (c) The Council may rely upon the following when verifying information from another jurisdiction: official written verification received directly from the other jurisdiction; a government website reflecting the information (e.g., active licensure and good standing); or verbal or email verification directly from the other jurisdiction.
- (d) For purposes of calculating time periods related to experience requirements completed while holding a license, the Council shall consider the time period to begin at the issuance of the relevant license.

Adopted to be effective: September 1, 2020

Amended: September 21, 2022; July 16, 2024; November 9, 2025

882.3. Review and Appeal of License Denials.

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

Adopted to be effective: September 1, 2020

882.4. Assistance in Licensing Determinations.

- (a) Each member board shall be responsible for reviewing any licensing matters and questions raised or brought to it by agency staff regarding an application or renewal. The member boards may utilize committees to address application or licensing matters, and shall provide the

Council with a recommendation as to any licensing matters or questions raised or brought to it by agency staff regarding an application or renewal.

- (b) The Council shall review all licensing matters for anti-competitive impacts, administrative consistency, and good governance concerns. The Council may not substitute its judgment in licensing determinations for that of a member board where, in its sole determination, none of the aforementioned concerns are present.
- (c) The Council shall solicit input from and request the assistance of a member board when considering an application for issuance or renewal of a license if there are concerns about an applicant related to the standard of care or professional qualifications. The Council may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Adopted to be effective: September 1, 2020

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

Adopted to be effective: September 1, 2020

882.6. Limitations on Number of Examination Attempts.

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

Adopted to be effective: September 1, 2020

882.7. Reasonable Accommodations for Persons with Disabilities and Dyslexia.

- (a) The Council shall comply with applicable provisions of the Americans with Disabilities Act (ADA) in its applications

- procedures by providing reasonable accommodations that do not violate or undermine the agency's mission or state law.
- (b) It is the responsibility of the individual applicant to inform the Council in advance of any reasonable accommodations needed during the application process, including any examinations conducted by the agency. Only requests which give the Council sufficient notice and opportunity to provide reasonable accommodations without disrupting the normal business of the agency will be considered.
 - (c) Requests for reasonable accommodations under this rule must contain each of the following:
 - (1) a written description of the disability, as well as the functional limitations resulting from the disability;
 - (2) the specific accommodations requested;
 - (3) a description of any accommodations received in the past for the disability; and
 - (4) a formal medical or mental health diagnosis made or confirmed within the last five years by a licensed professional qualified to make the diagnosis describing the need for specific accommodations. The diagnosis must have been made or confirmed within the last 12 months for psychiatric disabilities. This requirement does not apply to physical or sensory disabilities of a permanent or unchanging nature.
 - (d) The Council will provide reasonable examination accommodations to an applicant who has been diagnosed as having dyslexia, as defined in §51.970 of the Education Code. When requesting reasonable examination accommodations under this subsection, the applicant must comply with subsection (c) of this section.

Adopted to be effective: September 1, 2020

882.8. Rescheduling of Examination Due to Religious Holy Day.

- (a) Applicants wishing to observe a religious holy day on which their religious beliefs prevent them from taking an examination scheduled by the Council on that religious holy day will be allowed to take the examination on an alternate date.
- (b) Applicants wishing to take an examination, scheduled on a religious holy day, on an alternate date must submit a written request to take the examination on an alternate date and state the religious holy day they wish to observe. Applicants must submit their written request prior to being scheduled for an examination.

- (c) The Council may extend any time periods for completing an examination, as needed when scheduling an alternate examination date.

Adopted to be effective: September 1, 2020

882.9. Established Application Processing Times.

- (a) The Council shall publish the minimum, maximum, and median times for processing applications during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.
- (b) Applicants whose application processing time exceeds 90 days or the maximum processing time published on the agency's website, whichever is greater, may submit a written complaint to the Executive Director requesting a timely resolution of any dispute arising from the delay.
- (c) The Executive Director shall, upon receipt of a proper complaint, review the matter to determine whether the agency has good cause, as that term is defined in §2005.004 of the Government Code, for exceeding the maximum application processing time. If the maximum application processing time was exceeded and good cause is not found, the Council shall refund any application fee paid in connection with the delayed application.
- (d) There is no appeal of the determination made by the Executive Director under this rule. A complaint is waived if not filed within 30 days of licensure.

Adopted to be effective: September 1, 2020

882.10. Applicants with Pending Complaints.

- (a) The Council may hold an application in abeyance up to 180 days if there is a high priority complaint pending against the applicant. Alternatively, the Council may issue a license subject to an eligibility order in lieu of abatement.
- (b) An applicant will be permitted to take all required exams while an application is abated.
- (c) Notwithstanding any other rule, the Council may enter findings of fact and conclusions of law and take disciplinary action against a license for acts or omissions that occurred prior to the issuance of the license.

Adopted to be effective: June 15, 2023

882.11. Applicants with Foreign Degrees.

- (a) An applicant with a foreign degree must submit an official transcript and certified translation when applying for licensure. The official transcript must be translated to

English by the issuing institution, a translator that is certified by the American Translators Association, a reputable foreign translator or translation service, or a U.S. college or university official.

- (b) An applicant with a foreign degree must have the degree evaluated to determine if it is comparable to the degree required for the particular license sought. Foreign degree evaluations must be sent directly to the Council from the evaluation service, submitted by the applicant in the sealed envelope in which they are received from the evaluation service, or be submitted as directed by agency staff.
- (c) Foreign degree evaluations must be conducted by a foreign degree evaluation service that is a member of the National Association of Credential Evaluation Services (NACES) or the Association of International Credential Evaluators, Inc. (AICE). Alternatively, the Council will accept foreign degree evaluations from the National Register of Health Service Psychologists for persons applying under Chapter 501 of the Occupations Code and the International Social Work Degree Recognition and Evaluation Service for persons applying under Chapter 505 of the Occupations Code.
- (d) The Council retains the exclusive authority to determine whether a foreign degree is comparable to the degree required for licensure.

Adopted to be effective: September 1, 2020

Amended: September 19, 2021

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

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

Adopted to be effective: September 1, 2020

882.13. Protections Based on Affiliation with Religious Organizations.

In accordance with Chapter 2400 of the Government Code, the Council may not deny an application or renewal of a license based

wholly or partly on a person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization.

Adopted to be effective: September 1, 2020

882.14. Petition for Waiver or Remediation of Deficiency.

- (a) An applicant who does not meet the prerequisites for a particular license under Chapters 501, 502, 503, or 505 of the Occupations Code, may petition the Council to waive or remediate a deficiency of their application. The Council may waive a prerequisite, or allow remediation by setting reasonable conditions on the applicant for approval of the license application, if:
 - (1) the applicant can show
 - (A) good cause for the deficiency, or
 - (B) that the deficiency is due to a disaster declared under Chapter 418 of the Government Code or under similar authority in another jurisdiction;
 - (2) the prerequisite(s) is not mandated by federal law, the Texas Constitution, or state statute;
 - (3) the deficiency would not adversely affect the public welfare; and
 - (4) any conditions established by the member board will ensure the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought.
- (b) Each member board shall be responsible for reviewing petitions for waiver or remediation of a license prerequisite in accordance with §882.4 of this chapter.

Adopted to be effective: November 14, 2024

Subchapter B. License.

882.20. Form of License.

- (a) Each member board shall be responsible for the content and design of its licenses, subject to the approval of the Council. A license issued by the Council shall prominently reflect the member board for the profession and reference the board being a member of the Council.
- (b) A license shall include the full legal name of the license holder at the time of licensure and the unique license number assigned to the license.

Adopted to be effective: September 1, 2020

882.21. License Statuses.

- (a) Active Status. Any licensee with a license on active status may practice pursuant to that license, subject to any restrictions imposed by the Council.
- (b) Inactive Status.
 - (1) A licensee with an unrestricted active or delinquent license may elect inactive status through the Council's online licensing system. A licensee who elects inactive status must pay the associated fee. A licensee may not engage in the practice of the licensee's respective profession under an inactive license.
 - (2) A licensee with an inactive license is not required to comply with continuing education requirements while the license is inactive.
 - (3) The inactive status period for a license shall coincide with the license renewal period. At the end of the renewal period, if the inactive status has not been renewed or the license returned to active status, the license will expire, unless there is a complaint pending against the license. An inactive license with a pending complaint that has not been renewed or returned to active status within the renewal period will remain in inactive status until resolution of the complaint. Upon resolution, the license shall be subject to any resulting disciplinary action and, if not revoked or resigned, shall expire.
 - (4) In order to continue on inactive status, an inactive licensee must renew the inactive status each renewal period. Licensees may renew their inactive status through the Council's online licensing system by completing the online renewal requirements and paying the associated fee.
 - (5) A licensee with a pending complaint may not place a license on inactive status. The Council may sanction a license on inactive status for violations of its rules. If disciplinary action is taken against a licensee's inactive license, the licensee must reactivate the license until the terms of the disciplinary action or restricted status have been terminated. Failure to reactivate a license when required by this paragraph shall constitute grounds for further disciplinary action.
 - (6) An inactive license may be reactivated at any time by applying for active status through the online licensing system. When reactivating a license, a licensee must pay the renewal fee associated with the license. A

license that has been reactivated is subject to the standard renewal schedule and requirements, including renewal and late fees. Notwithstanding the foregoing, a license that is reactivated within 60 days of its renewal date will be considered as having met all renewal requirements and will be renewed for the next renewal period.

- (7) Any licensee reactivating a license from inactive status must provide proof of completion of the continuing education requirements for renewal of that particular license before reactivation will occur.
 - (8) A licensee wishing to reactivate a license that has been on inactive status for four years or more must take and pass the relevant jurisprudence exam with the minimum acceptable score, unless the licensee holds another license on active status within the same profession.
- (c) **Delinquent Status.** A licensee who fails to renew a license for any reason when required is considered to be on delinquent status. A licensee may not engage in the practice of the licensee's respective profession under a delinquent license. The Council may sanction a delinquent licensee for violations of its rules. Any license delinquent for more than 12 consecutive months may not be renewed and shall expire unless there is a complaint pending against the license. A license with a pending complaint that has been delinquent for more than 12 months will remain in delinquent status until resolution of the complaint. Upon resolution, the license shall be subject to any resulting disciplinary action and, if not revoked or resigned, shall expire.
- (d) **Restricted Status.** Any license that is currently suspended, on probated suspension, or is currently required to fulfill some requirements in an agency order is a restricted license. A licensee may not engage in the practice of the licensee's respective profession under a suspended license. A licensee who is under a probated suspension or other restriction may only practice under the terms of that restriction.
- (e) **Retirement Status.** A licensee who is on active, inactive, or delinquent status may retire the license by submitting an online application to the Council. However, a licensee with a pending complaint or restricted license may not retire the license. A licensee who retires a license shall be reported to have retired in good standing. A licensee may not engage in the practice of the licensee's respective profession under a retired license.

- (f) Resignation Status. A licensee may resign only upon express agreement with the Council. A licensee may not engage in the practice of the licensee's respective profession under a resigned license.
- (g) Expired Status. A license that has been delinquent for more than 12 consecutive months or any inactive license that is not renewed or reactivated is considered to be expired, except delinquent or inactive licenses pending complaint resolution. A licensee may not engage in the practice of the licensee's respective profession under an expired license.
- (h) Revoked Status. A revoked status results from a license being revoked pursuant to an agency order. A licensee may not engage in the practice of the licensee's respective profession under a revoked license.

Adopted to be effective: September 1, 2020

Amended: June 1, 2021; February 27, 2022; November 14, 2024; November 9, 2025

882.22. Reinstatement of a License.

- (a) A person whose full license has expired or been retired, revoked, or resigned, may apply for reinstatement of the license. A person seeking re-licensure must apply for reinstatement, rather than applying for a new full license.
- (b) An application for reinstatement shall be in writing and in the form prescribed by the Council.
- (c) In the case of revocation or resignation, application for reinstatement shall not be made prior to one year after the effective date of the revocation or resignation or prior to any time period specified in the order of revocation or resignation. A person whose license was revoked under §108.053 may apply for reinstatement of the license if the person meets the requirements of §108.055 of the Occupations Code.
- (d) A person seeking reinstatement of a license shall appear before the Council or member board to answer any questions or address any concerns raised by the person's application if requested by a council or board member or the Executive Director. Failure to comply with this paragraph shall constitute grounds for denial of the application for reinstatement.
- (e) The Council may approve or deny an application for reinstatement, and in the case of a denial, the Council may also set a reasonable period that must elapse before another application may be filed. The Council may also impose reasonable terms and conditions that an applicant must satisfy before reinstatement of an unrestricted license.

- (f) An application for reinstatement of an expired, retired, revoked, or resigned license may be granted upon proof of each of the following:
 - (1) payment of the application fee;
 - (2) submission of a self-query report from the National Practitioner Data Bank (NPDB) reflecting any disciplinary history or legal actions taken against the applicant. A self-query report must be submitted to the agency as a PDF that ensures the self-query is exactly as it was issued by the NPDB (i.e., a digitally certified self-query response) or in the sealed envelope in which it was received from the NPDB;
 - (3) a fingerprint based criminal history check which reflects no disqualifying criminal history;
 - (4) passage of any examinations required by a member board;
 - (5) documentation of any continuing education required by a member board; and
 - (6) submission of any other documentation or information requested in the application or which the Council or a member board may deem necessary in order to ensure the public's safety.
- (g) The Council will evaluate each of the following criteria when considering reinstatement of an expired, revoked, or resigned license:
 - (1) circumstances surrounding the expiration, revocation, or resignation of the license;
 - (2) conduct of the applicant subsequent to the expiration, revocation, or resignation of the license;
 - (3) lapse of time since the expiration, revocation, or resignation of the license;
 - (4) compliance with all terms and conditions imposed by the Council or a member board in any previous order; and
 - (5) applicant's present qualification to practice the regulated profession based upon the history of related employment, service, education, or training, as well as the applicant's continuing education since the expiration, revocation, or resignation of the license.
- (h) Notwithstanding time limits on original applications and examinations found elsewhere in these rules, an applicant seeking reinstatement of a license must submit all required documentation and information, and successfully pass all required examinations within the period specified by the Council. Failure to do so shall result in the application for reinstatement expiring.

Adopted to be effective: September 1, 2020
Amended: September 21, 2022

882.23. License Required to Practice.

- (a) A person may not engage in or represent that the person is engaged in the practice of marriage and family therapy, professional counseling, psychology, or social work within this state, unless the person is licensed or otherwise authorized to practice by law.
- (b) A person is engaged in the practice of marriage and family therapy within this state if any of the criteria set out in §502.002(6) of the Occupations Code occurs while a client is located in this state.
- (c) A person is engaged in the practice of professional counseling within this state if any of the criteria set out in §503.003(a) of the Occupations Code occurs while a client is located in this state.
- (d) A person is engaged in the practice of psychology within this state if any of the criteria set out in §501.003(b) of the Occupations Code occurs while a client is located in this state.
- (e) A person is engaged in the practice of social work within this state if any of the criteria set out in §505.0025 of the Occupations Code occurs while a client is located in this state.
- (f) In accordance with §113.002 of the Occupations Code, a licensee of the Executive Council may provide a mental health service, that is within the scope of the license, through the use of a telehealth service to a client who is located outside of this state, subject to any applicable regulation of the jurisdiction in which that client is located. Such conduct does not constitute the practice of marriage and family therapy, professional counseling, psychology, or social work in this state.
- (g) For the purposes of this rule, the term "client" means:
 - (1) a recipient of marriage and family therapy, professional counseling, psychology, or social work services within the context of a professional relationship, including a child, adolescent, adult, couple, family, group, organization, community, or other populations, or other entities receiving services;
 - (2) an individual or entity requesting the services (e.g., an employer, a state, tribal, or federal court, an attorney acting on behalf of his or her client, an office or agency within local, state, or federal government), the recipient of those services (e.g., the subject of an

- evaluation, assessment, or interview), and an individual or entity interviewed, examined, or evaluated for the purpose of those services (e.g. a collateral witness or collateral sources of information);
- (3) an organization such as a business, charitable, or governmental entity that receives services directed primarily to the organization, rather than to individuals associated with the organization;
 - (4) minors and wards in guardianships, as well as their legal guardians; and
 - (5) any related term for the recipient of services, such as a patient, evaluatee, examinee, interviewee, participant, or any other similar term.

Adopted to be effective: September 1, 2020

Amended: March 27, 2024

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

Adopted to be effective: September 1, 2020

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

Adopted to be effective: September 1, 2020

882.26. Authorized Practice of Psychology Without a License.

- (a) Notwithstanding Rule §882.23 of the chapter, the activities or services described in §501.004 of the Psychologists' Licensing Act are exempt from the Council's jurisdiction and do not require a license.
- (b) The activity or service of a post-doctoral fellow or resident in psychology is exempt from the Council's jurisdiction pursuant to §501.004(a)(2) of the Psychologists' Licensing Act if all of the following criteria are met:
 - (1) The person is enrolled in a formal post-doctoral program that is:
 - (A) accredited by the American Psychological Association (APA) or is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or

- (B) substantially equivalent to a program described in subparagraph (A) of this paragraph;
 - (2) The activities or services take place under qualified supervision and are part of the formal post-doctoral program; and
 - (3) The person is designated as a psychological intern or trainee, or by another title that clearly indicates the person's training status.
- (c) A formal post-doctoral program which meets the following criteria will be considered substantially equivalent to an APA accredited or APPIC member program:
- (1) An organized experience with a planned and programmed sequence of supervised training experiences.
 - (2) A designated psychologist responsible for the program who possesses expertise or competence in the program's area.
 - (3) Two or more licensed psychologists on staff, at least one designated as supervisor with expertise in area of practice.
 - (4) A minimum of 2 hours per week of face-to-face supervision.
 - (5) A minimum of 2 additional hours per week of learning activities.
 - (6) A minimum of 25% of the fellow's time is spent providing professional psychological services.
 - (7) Admission requirements that require the applicant to complete all professional degree requirements and a pre-doc internship, which at a minimum meets Council requirements.
 - (8) A requirement that participants use titles such as intern, resident, fellow, or trainee.
 - (9) Documentation describing the goals, content, organization, entrance requirements, staff, mechanisms for a minimum of 2 evaluations per year, and a statement that the program meets Texas' licensure requirements.
 - (10) At a minimum, an informal due process procedure regarding deficiencies and grievances.
 - (11) A written requirement for at least 1500 hours to be completed in not less than 9 months and not more than 24 months.

Adopted to be effective: September 1, 2020

882.27. Authorized Practice of Social Work Without a License.

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

Adopted to be effective: September 1, 2020

882.28. Update to Degree on a License.

- (a) A licensee may update a sub-doctoral degree listed on his or her official license to a doctoral degree if the licensee submits a complete application and transcript, pays the required fee, and provides any other information or supportive documentation deemed relevant by the Council.
- (b) Licensees must submit an official transcript in accordance with §882.2 of this chapter indicating the date the doctoral degree was awarded or conferred. Foreign doctoral degrees must be evaluated in accordance with §882.11 of this chapter.
- (c) A doctoral degree must meet the minimum degree requirements for the applicable license.
- (d) An application to update the degree on a license is not an application for licensure, and therefore is not subject to any appeal or review under §882.3 of this chapter or Chapter 2001 of the Government Code. Further, the staff review and processing of an application under this rule is not subject to the processing times referenced in §882.9 of this chapter.

Adopted to be effective: March 27, 2024

Subchapter C. Duties and Responsibilities.

882.30. Display of License.

- (a) A licensee must display an official copy of the holder's license in a prominent place in the office, building, complex, or facility where services are delivered. An official copy of a license is the original or a copy issued by the Council bearing the state agency's seal.
- (b) In lieu of subsection (a) of this section, a person licensed under Chapter 501 or 505 may provide to a patient or client written notification of the holder's license number accompanied by instructions for verification of same.

Adopted to be effective: September 1, 2020

882.31. Advertising Restriction. Licensees may not authorize, use, or make any public statements or advertisements that are false, deceptive, misleading or fraudulent, either because of what they state, convey or suggest or what they omit concerning their own

training, experience, supervision status, abilities or competence; their academic degrees; their credentials; their institutional or association affiliations; or their publications or research.

Adopted to be effective: September 1, 2020

882.32. Duty to Update Name and Address.

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

Adopted to be effective: September 1, 2020

Amended: November 15, 2023

882.33. Disclosure of Proprietary Examination Materials of

Information Prohibited. It is considered unprofessional conduct and grounds for disciplinary action, including denial of licensure or renewal, for any applicant or licensee to disclose the contents or any proprietary materials or information from the examinations utilized by the Council.

Adopted to be effective: September 1, 2020

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

- (a) Applicants. Applicants are prohibited from providing false or misleading statements, information, or omissions in their applications, documents, and communications with the Council or member boards. For an infraction of this type, the Council may agree to process an application or other document pursuant to an eligibility order. For a serious

infraction of this type that could lead to licensure of an unqualified person, the Council may deny licensure.

- (b) Licensees. The Council will open a complaint against a licensee for false or misleading statements, information, or omissions made in connection with an application, renewal, document, or other communication with the Council. For an infraction that led to the licensure or renewal of an unqualified person or a change in license status, the Council may revoke the license or deny any future renewal of the license.

Adopted to be effective: September 1, 2020

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

- (1) the name of the license holder and the address and telephone number of the license holder's primary practice location;
- (2) whether the license holder's patient, client, user, customer, or consumer service areas, as applicable, are accessible to disabled persons, as defined by federal law;
- (3) the type of language translating services, including translating services for a person with impairment of hearing, that the license holder provides for patients, clients, users, customers, or consumers, as applicable;
- (4) if applicable, insurance information, including whether the license holder participates in the state child health plan under Chapter 62, Health and Safety Code, or the Medicaid program;
- (5) the education and training received by the license holder, as required by the licensing entity;
- (6) any specialty certification held by the license holder;
- (7) the number of years the person has practiced as a license holder; and
- (8) if applicable, any hospital affiliation of the license holder.

Adopted to be effective: September 1, 2020

882.36. Compliance with State and Federal Law. Licensees comply with all applicable state and federal laws affecting the practice of

marriage and family therapy, professional counseling, psychology, or social work including, but not limited to:

- (1) Health and Safety Code, Chapter 611, Mental Health Records;
- (2) Family Code:
 - (A) Chapter 32, Consent to Medical, Dental, Psychological and Surgical Treatment,
 - (B) Chapter 153, Rights to Parents and Other Conservators to Consent to Treatment and Access to Child's Records, and
 - (C) Chapter 261, Duty to Report Child Abuse and Neglect;
- (3) Human Resource Code, Chapter 48, Duty to Report Elder Abuse and Neglect;
- (4) Civil Practice and Remedy Code, Chapter 81, Duty to Report Sexual Exploitation of a Patient by a Mental Health Services Provider;
- (5) Insurance Code as it relates to submission of billing and third-party payments for mental health services provided by a licensee;
- (6) Code of Criminal Procedure, Chapter 46B, Incompetency to Stand Trial, and Chapter 46C, Insanity Defense;
- (7) Occupations Code, Chapter 102, Solicitation of Patients; Chapter 104, Healing Art Practitioners; Chapter 105, Unprofessional Conduct; and Chapter 113, Mental Health Telemedicine and Telehealth Services;
- (8) Education Code, Chapter 51, Duty to Report Sexual Harassment and Assault, Dating Violence, and Stalking; and
- (9) 18 United States Code §1347 Health Care Fraud.

Adopted to be effective: September 1, 2020

882.37. COVID-19 Vaccine Passports Prohibited.

- (a) In this rule, COVID-19 has the same meaning assigned by §161.0085 of the Health and Safety Code.
- (b) A licensee shall not require an individual to provide any documentation certifying the individual's COVID-19 vaccination or post-transmission recovery on entry to, to gain access to, or to receive service from the licensee or the licensee's practice.
- (c) Notwithstanding subsection (b) of this section, licensees may implement COVID-19 screening and infection control

protocols in accordance with state and federal law to protect public health.

- (d) This rule shall not operate or be construed to interfere with an individual's right to access the individual's personal health information under federal law.

Adopted to be effective: February 27, 2022

Subchapter D. Criminal History and License Eligibility.

882.40. Criminal History Background Checks.

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

Adopted to be effective: September 1, 2020

882.41. Criminal History Evaluation.

- (a) In compliance with Chapter 53 of the Occupations Code, the Council will provide criminal history evaluation letters.
- (b) A person may request the Council provide a criminal history evaluation letter if the person is planning to enroll or is enrolled in an educational program that prepares the person for a license with this agency and the person has reason to believe that the person may be ineligible for licensure due to a conviction or deferred adjudication for a felony or misdemeanor offense.
- (c) The requestor must submit to the Council a completed application form requesting an evaluation letter, the required fee, and certified copies of court documentation about all convictions, deferred adjudications, or other final

dispositions which may form the basis for the person's ineligibility.

- (d) Requestors must obtain a fingerprint criminal history record check after they have submitted an application for a criminal history evaluation letter.
- (e) The Council has the authority to investigate a request for a criminal history evaluation letter and may require the requestor to provide additional information about the convictions and other dispositions.
- (f) The Council will provide a written response to the requestor within 90 days of receipt of the request, unless a more extensive investigation is required or the requestor fails to comply with the Council's investigation.
- (g) In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the licensing authority at the time the letter is issued, the Council's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

Adopted to be effective: September 1, 2020

882.42. Ineligibility Due to Criminal History.

- (a) The Council may revoke or suspend a license, disqualify a person from receiving or renewing a license, or deny a person the opportunity to be examined for a license due to a felony or misdemeanor conviction, or a plea of guilty or nolo contendere followed by deferred adjudication, if the offense:
 - (1) is listed in Article 42A.054 of the Code of Criminal Procedure;
 - (2) was a sexually violent offense, as defined by Article 62.001 of the Code of Criminal Procedure; or
 - (3) directly relates to the duties and responsibilities of a licensee.
- (b) In determining whether a criminal conviction directly relates to the duties and responsibilities of a licensee, the agency shall consider the factors listed in §53.022 of the Occupations Code. Each member board shall determine which crimes are directly related to the duties and responsibilities of its licensees.
- (c) If the agency determines that a criminal conviction directly relates to the duties and responsibilities of a licensee, the agency must consider the factors listed in §53.023 of the Occupations Code when determining whether to suspend or revoke a license, disqualify a person from receiving a license, or deny a person the opportunity to take a licensing examination. It shall be the responsibility of the applicant or

licensee to provide documentation or explanations concerning each of the factors listed in the law. Any documentation or explanations received will be considered by the agency when deciding whether to suspend or revoke a license, disqualify a person from receiving a license, or deny a person the opportunity to take a licensing examination.

- (d) Notwithstanding any schedule of sanctions adopted by the Council or a member board, the Council:
- (1) shall revoke a license due to a felony conviction under §35A.02 of the Penal Code, concerning Medicaid fraud, in accordance with §36.132 of the Human Resources Code;
 - (2) shall revoke or suspend a license for unprofessional conduct in accordance with §105.002 of the Occupations Code;
 - (3) shall revoke a license due to a license holder's imprisonment following a felony conviction for:
 - (A) an offense that directly relates to the duties and responsibilities of the licensed occupation;
 - (B) an offense listed in Article 42A.054, Code of Criminal Procedure; or
 - (C) a sexually violent offense, as defined by Article 62.001, Code of Criminal Procedure;
 - (4) shall revoke a license due to a license holder's felony community supervision revocation, revocation of parole, or revocation of mandatory supervision; or
 - (5) may revoke a license due to a license holder's imprisonment following a felony conviction.
- (e) In accordance with Chapter 108 of the Occupations Code, an application for licensure as a psychologist or social worker will be denied if the applicant:
- (1) is required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure;
 - (2) has been previously convicted of or placed on deferred adjudication for the commission of a felony offense involving the use or threat of force; or
 - (3) has been previously convicted of or placed on deferred adjudication for the commission of an offense:
 - (A) under §§22.011, 22.02, 22.021 or 22.04 of the Penal Code, or an offense under the laws of another state or federal law that is equivalent to an offense under one of those sections;
 - (B) during the course of providing services as a health care professional; and
 - (C) in which the victim of the offense was a patient.

- (f) A person whose application was denied under subsection (e) of this section may reapply for licensure if the person meets the requirements of §108.054 of the Occupations Code.
- (g) In accordance with §108.053 of the Occupations Code, the Council shall revoke the license of a psychologist or social worker if the licensee is:
 - (1) convicted or placed on deferred adjudication for an offense described by subsection (e)(2) or (3) of this section; or
 - (2) required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure.
- (h) The Council will provide notice to a person whose application has been denied due to criminal history as required by §53.0231 and §53.051 of the Occupations Code.
- (i) A criminal offense committed in another state, tribal, territorial, or commonwealth jurisdiction or under federal law is subject to this rule if the offense is substantially similar to an offense listed in this rule.

Adopted to be effective: September 1, 2020

Amended: March 7, 2023; March 18, 2026

Subchapter E. Continuing Education.

882.50. Continuing Education and Audits.

- (a) All persons issued a license by the Council are obligated to continue their professional education by completing a minimum amount of continuing education during each renewal period that they hold a license from this agency. The specific continuing education requirements for a license holder will be determined by the member board authorized to set those requirements.
- (b) Licensees shall report continuing education in the manner prescribed by the Council, including registering for and using any online system for documenting continuing education adopted by the Council.
- (c) The Council conducts two types of audits regarding continuing education. Licensees shall comply with all agency requests for documentation and information concerning compliance with continuing education requirements.
 - (1) Random audits. Each month, 5% of the licensees will be selected by an automated process for an audit of the licensee's compliance with the agency's continuing education requirements. The agency will notify a licensee of the audit. Upon receipt of an audit notification, a licensee must submit continuing

education documentation in the manner requested by the Council.

- (2) Individualized audits. The Council may also conduct audits of a specific licensee's compliance with its continuing education requirements at any time the agency determines there are grounds to believe that a licensee has not complied with the requirements of this rule. Upon receipt of notification of an individualized audit, the licensee must submit all requested documentation within the time period specified in the notification.

Adopted to be effective: September 1, 2020

Amended: June 1, 2021; July 20, 2025

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

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

- (a) The Council adopts by reference the definitions set forth in Chapter 55 of the Occupations Code.
- (b) A license may be issued to a military service member, military veteran, or military spouse upon proof of one of the following:
 - (1) the applicant holds a current license in good standing in another jurisdiction that has a similar scope of practice as the license sought in this state as defined by the Texas Occupations Code; or
 - (2) within the five years preceding the application date, the applicant held the license sought in this state.
- (c) An applicant applying as a military spouse must submit proof of marriage to a military service member.
- (d) As part of the application process, the Executive Director may waive any prerequisite for obtaining a license, other than the requirements in subsection (b) of this section, the jurisprudence examination, and the fingerprint criminal history background check, if it is determined that the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought. When making this determination, the Executive Director must consult with the relevant member board or its designated application or licensing committee and consider the board's or committee's input and recommendations. In

the event the Executive Director does not follow a recommendation of the board or committee, the Executive Director must submit a written explanation to the board or committee explaining why its recommendation was not followed. No waiver may be granted where a military service member or military veteran holds a license issued by another jurisdiction that has been restricted, or where the applicant has a disqualifying criminal history.

- (e) Each member board may develop and maintain alternate methods for a military service member, military veteran, or military spouse to demonstrate competency in meeting the requirements for obtaining a license, including receiving appropriate credit for training, education, and professional experience.
- (f) Each member board shall develop and maintain a method for applying credit toward license eligibility requirements for applicants who are military service members or military veterans with verifiable military service, training, or education. An applicant may not receive credit toward licensing requirements under this subsection if the applicant holds another license that has been restricted, or the applicant has a disqualifying criminal history.
- (g) The initial renewal date for a license issued pursuant to this rule shall be set in accordance with the agency's rule governing initial renewal dates.

Adopted to be effective: September 1, 2020

Amended: February 27, 2022; March 18, 2026

882.61. Special Licensing Provisions for Military Spouses.

- (a) Notwithstanding §882.23 of this chapter and in accordance with §55.0041 of the Occupations Code and the Veterans Auto and Education Improvement Act of 2022 (Public Law No. 117-333), a service member or military spouse is authorized to practice marriage and family therapy, professional counseling, psychology, or social work without a license if the person meets each of the following requirements:
 - (1) the service member or military spouse notifies the Council on an agency approved form or as directed by agency staff, of the service member's or military spouse's intent to practice a particular profession in this state;
 - (2) the service member or military spouse provides verification of licensure in good standing in another jurisdiction in the similar scope of practice and in the discipline applied for in this state;

- (3) the service member or military spouse submits proof of location in this state (e.g. copy of a permanent change of station order); and
 - (4) the Council provides confirmation to the service member or military spouse that it has verified the service member's or military spouse's license in the other jurisdiction and that the service member or military spouse is authorized to practice a particular profession.
- (b) The Council may rely upon the following when verifying licensure under this subsection: official verification received directly from the other jurisdiction, a government website reflecting active licensure and good standing, or verbal or email verification directly from the other jurisdiction.
 - (c) A service member or military spouse authorized to practice under this rule is subject to all laws and regulations in the same manner as a regularly licensed provider.
 - (d) A service member or military spouse may practice under this rule while the service member or military spouse is stationed at a military installation in this state.
 - (e) In order to obtain and maintain the privilege to practice without a license in this state, a service member or military spouse must remain in good standing with every licensing authority that has issued a license to the service member or military spouse at a similar scope of practice and in the discipline applied for in this state.
 - (f) This does not apply to service members or military spouses that are licensed and able to operate in this state through an interstate licensure compact. Service members or military spouses eligible to participate in an interstate licensure compact may either apply to practice through the authority of the interstate licensure compact or through other applicable state law.
 - (g) Notwithstanding subsection (d) of this section, in the event of a divorce or similar event (e.g., annulment, death of spouse) affecting a military spouse's marital status, a military spouse who relied upon this section to obtain authorization to practice may continue to practice under the authority of this rule until the third anniversary of the date the spouse submitted the application for authorization.

Adopted to be effective: September 1, 2020

Amended: February 27, 2022; September 21, 2023; March 18, 2026

Subchapter G. Emergency Temporary License.

882.70. Emergency Temporary License.

- (a) The Council shall issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under §418.014 and issues a proclamation in accordance with Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (b) An emergency temporary license issued pursuant to this rule will expire upon termination of the suspension or state of disaster, whichever occurs first.
- (c) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (d) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice, marriage and family therapy, professional counseling, psychology, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.
- (e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (f) An individual practicing under an emergency temporary license must:
 - (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application or issuance of an emergency temporary license.

Adopted to be effective: September 1, 2020

Amended: February 27, 2022

RENEWALS

Subchapter A. General Provisions.

883.1. Renewal of a License.

- (a) All licenses subject to the jurisdiction of the Council are renewable on a biennial basis and must be renewed online.
- (b) Renewals are due on the last day of the license holder's birth month, but may be completed up to 60 days in advance.
- (c) Renewal Conditions:
 - (1) Licensees must pay all applicable renewal and late fees, indicate compliance with any continuing education requirements, and comply with any other requests for information or requirements contained within the online renewal system as a prerequisite for renewal of a license. This paragraph is effective for licenses with expiration dates prior to November 30, 2021.
 - (2) Licensees must pay all applicable renewal or late renewal fees, indicate compliance with any continuing education requirements, and comply with any other requests for information or requirements contained within the online renewal systems as a prerequisite for renewal of a license. This paragraph is effective for licenses with expiration dates on or after November 30, 2021.
- (d) In addition to the requirements of subsection (c) of this section, licensees must also show compliance with each of the following as a condition of renewal:
 - (1) provide or update the standardized set of information about their training and practices required by §105.003 of the Health and Safety Code;
 - (2) affirm or demonstrate successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code; and
 - (3) if chosen for an audit under §882.50 of this title, licensees are required to submit a self-query report from the National Practitioner Data Bank in the same manner required by §882.2 of this title.
- (e) Licensed psychologists must update their online profile information when renewing their license.
- (f) A license may not be renewed until a licensee has complied with the requirements of this rule.

- (g) A licensee who falsely reports compliance with continuing education requirements on his or her renewal form or who practices with a license renewed under false pretenses will be subject to disciplinary action.
- (h) Licensees will be sent notification of their approaching renewal date at least 30 days before their renewal date. This notification will be sent to the licensee's main address via first class mail. Responsibility for renewing a license rests exclusively with the licensee, and the failure of the licensee to receive the reminder notification from the Council shall not operate to excuse a licensee's failure to timely renew a license or any unlawful practice with a subsequent delinquent license.

Adopted to be effective: September 1, 2020

Amended: November 21, 2021; March 27, 2024

883.2. Initial License Renewal Dates.

- (a) The license expiration date for a license issued by this agency is the last day of the licensee's birth month.
- (b) The initial renewal date for a license issued or reinstated by this agency shall be set as follows:
 - (1) A license issued or reinstated within 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of two years from the date of issuance or reinstatement.
 - (2) A license issued or reinstated more than 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of one year from the date of issuance or reinstatement.
- (c) Following the initial renewal dates set forth in subsection (b) of this section, a license shall become subject to the standard renewal schedule and requirements.
- (d) Notwithstanding subsection (b) of this section, for individuals with more than one license from a member board, the initial renewal date for a newly issued or reinstated license shall coincide with the individual's existing license renewal date.

Adopted to be effective: September 1, 2020

883.3. Nonrenewal for Failure to Pay Child Support.

- (a) The Council shall, in accordance with §232.0135 of the Family Code, refuse to renew a license if the Council receives notice from a child support agency that the licensee has failed to pay child support under a support order for six

months or more and the child support agency requests the Council to deny the renewal of an existing license.

- (b) Following receipt of notice from a child support agency, the Council may not renew a license until the child support agency has notified the Council that the licensee has met one or more of the requirements set out in §232.0135(b) of the Family Code.
- (c) The Council may charge the licensee a fee equal to the renewal fee for a denial under this rule.

Adopted to be effective: September 1, 2020

Subchapter B. Renewal Provisions For Military Personnel.

883.10. Renewal Terms for Military Personnel on Active Duty.

- (a) Licensees serving on active duty, as defined by §55.001 of the Occupations Code, may request a waiver from the continuing education requirements and renewal fees associated with the renewal of their license. Licensees who submit a written request to the Council prior to their renewal date each renewal period, and provide the Council with official verification of active duty status during their renewal period, will be granted a waiver from the continuing education requirements and renewal fees associated with the renewal of their license for that renewal period.
- (b) Licensees with an expired or delinquent license may request their license be reinstated or returned to active status if they would have been eligible for a waiver under subsection (a) of this section prior to their license expiring or becoming delinquent. Licensees seeking relief under this subsection must do so within two years of their license becoming delinquent.

Adopted to be effective: September 1, 2020

COMPLAINTS AND ENFORCEMENT

Subchapter A. Filing A Complaint

884.1. Timeliness of Complaints.

- (a) A complaint not involving sexual misconduct will be considered timely if brought within five years of the date of the termination of professional services.
- (b) A complaint alleging sexual misconduct will be considered timely if brought within seven years after the date of termination of services or within five years of the patient, client or recipient of services reaching the age of majority, whichever is greater.
- (c) A complaint arising out of a matter required to be reported to the Council pursuant to rule §884.32 of this chapter, will be considered timely if brought within five years of the date the matter is reported to the Council. Limitations shall not begin to run for any such complaint until the matter is reported in accordance with Council rules.
- (d) This rule does not apply to a complaint closed as a result of the expiration of a license and subsequently reopened or initiated anew by the Council in connection with an application for reinstatement under §882.22 of this chapter.

Adopted to be effective: September 1, 2020

Amended: March 27, 2024

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

Adopted to be effective: September 1, 2020

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

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

alternatively, prior to dismissal of the case. A complaint received by the Council prior to these specified events will be dismissed by staff as premature. A complaint dismissed as premature may be resubmitted as a new complaint upon the occurrence of one of these events.

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

- come from an expert qualified to render an expert opinion under Texas law on the relevant subject;
- (4) A letter from an attorney licensed to practice law in Texas setting forth the applicable law governing the licensee's expert opinion or report and reflecting an opinion as to the manner in which the licensee failed to meet the requirements of the applicable law; or
 - (5) The agency would be likely to prevail at a hearing before SOAH based upon the information provided.

Adopted to be effective: September 1, 2020

884.4. Special Requirements for Complaints Alleging Violations Related to Court Ordered Therapy or Parenting Facilitator Services.

- (a) A person who seeks to file a complaint alleging a statutory or rule violation arising out of or related to court ordered therapy or parenting facilitator services must, in addition to submitting a Council-approved complaint form, comply with the requirements of this rule when filing a complaint.
- (b) A complaint may not be filed while the licensee is under appointment to provide therapy or parenting facilitator services. A complaint received by the Council while the licensee is appointed will be dismissed by staff as premature but may be resubmitted as a new complaint after the appointment is concluded or terminated.
- (c) A complaint will be considered timely filed if brought within the time period specified by the general rule governing timeliness of complaints or within one year of the appointment being concluded or terminated, whichever is greater.
- (d) A complaint must include each of the following:
 - (1) Documentation reflecting the licensee's appointment in the case. A copy of a court order, docket sheet, or transcript from the proceedings or a letter from an attorney involved in the case will meet the requirements of this rule;
 - (2) a copy of any documents provided by the licensee describing the costs, nature, or limitations of the services to be provided, or a statement that no such documents were provided;
 - (3) an attestation that the licensee's appointment in the case has been concluded or terminated. A letter from an attorney involved in the case will also meet the requirements of this rule.
- (e) A complaint that does not substantially comply with subsection (d) of this section shall be dismissed by agency

staff. A complaint may be held open for no more than 30 days following notice to the complainant regarding any such deficiency, after which, agency staff shall dismiss the complaint if the deficiency is not cured.

Adopted to be effective: February 27, 2022

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

- (a) A person who seeks to file a complaint alleging a violation of a court order in connection with the delivery of services by a licensee must, in addition to submitting a Council-approved complaint form, submit a certified copy of the court order violated and a certified copy of the judgment, order, or minutes of the court reflecting a finding of violation by the licensee. A complaint subject to this rule not in strict compliance with this requirement will be dismissed by agency staff.
- (b) Complaints Involving Standard of Care Issues in Schools:
 - (1) An individual wishing to file a complaint against a licensee for any matter relating to the identification, evaluation, or educational placement of or the provision of a free appropriate public education to a student, must first exhaust all administrative remedies available to that individual under 19 TAC §89.1150 of the Commissioner's Rules Concerning Special Education Services, Texas Education Agency. An individual that has gone through a due process hearing with the Texas Education Agency will be considered to have exhausted all administrative remedies.
 - (2) For purposes of this rule, limitations shall not begin to run until all of the administrative remedies referenced in paragraph (1) of this subsection have been exhausted.
 - (3) Notwithstanding paragraph (1) of this subsection, an individual employed or contracted by the same public or private school as the licensee may file a complaint covered by paragraph (1) of this subsection regardless of whether any administrative remedies available under state or federal education law are utilized by the parent or legal guardian of a student. A complaint brought under this provision shall be subject to the rule of limitations.
 - (4) This rule shall not operate to preclude any individual from filing a complaint against a licensee for any matter other than those described in paragraph (1) of

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

Adopted to be effective: September 1, 2020

884.6. Protections Based on Affiliation with Religious Organizations.

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

Adopted to be effective: September 1, 2020

Subchapter B. Investigations and Disposition of Complaints.

884.10. Investigation of Complaints.

- (a) The following priority rating system shall serve to distinguish between categories of complaints. The priority rating system is as follows:
 - (1) High Priority - cases involving sexual misconduct or a probability of imminent physical harm to the public or a member of the public; and
 - (2) Regular Priority - cases involving all other violations of state or federal law.
- (b) The Enforcement Division shall investigate all complaints in a timely manner. A schedule shall be established for conducting each phase of a complaint that is under the control of the Council not later than the 30th day after the date the complaint is received. The schedule shall be kept in the information file of the complaint, and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file, and all parties to the complaint must be notified in writing not later than the seventh day after the date the change is made.
- (c) The Council may accept, but is not obligated to investigate, a complaint that lacks sufficient information to identify the source or the name of the person who filed the complaint, a complaint that lacks sufficient evidence to identify a specific violation, or a complaint with an uncooperative complainant.
- (d) A complainant may explain the allegations made in the complaint by attaching or including with the complaint any evidence the complainant believes is relevant to a

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

- (e) A review will be conducted upon receipt of a complaint to determine if the Council has jurisdiction over the complaint, and if so, whether the complaint states an allegation which, if true, would constitute a violation of the Council's rules or other law within the jurisdiction of the Council.
- (f) When a licensee's conduct or statements could lawfully be made under an authority separate from their license issued by the Council, any conduct or statement that falls within the scope of practice of their license will be presumed to be taken or made under the authority of that license, and therefore within the jurisdiction of the Council, unless the licensee can show:
 - (1) no reasonable person would believe the conduct or statement occurred in the context of a professional relationship, or
 - (2) the licensee clearly and unequivocally disclaimed acting under the authority of their license prior to the conduct or statement, received written acknowledgement and consent from any clients that no professional services would be provided under the authority of their license, and did not otherwise engage at any time in the scope of practice of their license in relation to the conduct or statement.
- (g) Complaints that do not state a violation of a law within the jurisdiction of the Council shall be dismissed. If the complaint alleges a violation of a law within the jurisdiction of another agency, the complaint will be referred to that agency as required or allowed by law.
- (h) Complaints that state a violation of a law within the jurisdiction of the Council shall be investigated by an investigator assigned by the Enforcement Division.
- (i) Licensees will receive written notice of any alleged complaint(s), including specific information regarding any violation(s) encountered. Notice to a licensee is effective and service is complete when sent by registered or certified mail to the licensee's address of record at the time of the mailing.
- (j) Following completion of the investigation, an investigation report shall be drafted. This report shall include a recommendation as to whether the investigation has produced sufficient evidence to establish probable cause that a violation has occurred.

- (k) The Enforcement Division Manager (or the manager's designee) and legal counsel shall review the investigation report to determine if there is probable cause that a violation occurred.
- (l) A complaint for which the staff determines probable cause exists shall be referred for an informal conference by agency staff or a member board's Disciplinary Review Panel. Agency staff shall send the respondent notice of the date and time of the informal conference.
- (m) A complaint for which staff or a Disciplinary Review Panel determines that probable cause does not exist shall be referred for dismissal.
- (n) The services of a private investigator shall be retained only in the event that staff investigator positions are vacant or inadequate to provide essential investigative services. The services of a private investigative agency shall be obtained in accordance with the state's procurement procedures.
- (o) If a complainant or respondent are represented by an attorney, any notice or service required by law shall be made upon the attorney at the attorney's last known address.

Adopted to be effective: September 1, 2020

Amended: June 15, 2023; November 14, 2024; July 20, 2025

884.11. Informal Conferences.

- (a) The purpose of an informal conference shall be to provide the complainant with an opportunity to be heard, the respondent with an opportunity to show compliance with the law, and for the agency staff's or member board's Disciplinary Review Panel to make a recommendation regarding the informal disposition of the complaint. An informal disposition may be made of any complaint by stipulation, agreed or consent order, or dismissal.
- (b) Agency staff shall exercise reasonable control over the mode and order of the appearance by the parties, the presentation of witnesses and evidence, and the overall order and decorum during the proceedings. Complainants and respondents will be provided an opportunity to be heard at a time separate and apart from the other.
- (c) Agency staff may solicit input from and request the assistance of board members if there are concerns about the standard of care, scope of practice, or ethical practice shown by a licensee.
- (d) Complainants and respondents may appear with legal counsel at informal conferences and shall be provided with an opportunity to present witnesses and any evidence they believe is relevant to a determination of the allegations,

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

- (e) Complainants and respondents are encouraged to attend informal conferences, but attendance is voluntary.
 - (1) Failure by a respondent to attend an informal conference does not constitute professional misconduct or failure to cooperate with a Council investigation, but a respondent is not entitled to a new or additional informal conference if agency staff or the panel makes a disciplinary recommendation regarding the licensee in absentia.
 - (2) Failure by a complainant to attend an informal conference may result in a recommendation for dismissal of the complaint.
- (f) A complaint which is not dismissed or resolved by agreement following an informal conference, shall be filed as a contested case with the State Office of Administrative Hearings.
- (g) An attorney for the agency must be present at all informal conferences.
- (h) Informal conferences are not open meetings subject to Chapter 551 of the Government Code and no formal record of the proceedings shall be made or maintained.
- (i) The Council finds and declares that informal conferences are part of the confidential complaint and investigation process, and as such, the Disciplinary Review Panel and agency staff shall take any and all steps necessary to ensure the confidentiality of informal conferences in accordance with §507.205 of the Occupations Code.

Adopted to be effective: September 1, 2020

Amended: March 18, 2026

884.12. Complaint Disposition.

- (a) The Council must approve and enter all final orders following a contested case before SOAH or where no agreement exists between the agency and the respondent regarding the disposition of a contested enforcement related matter. However, each member board shall be responsible for reviewing complaints involving the standard of care, ethical guidelines, or scope of practice following a contested case before SOAH and making a recommendation to the Council regarding the final disposition. A recommendation from a member board must include any recommended modifications to the findings of fact and conclusions of law in the PFD, as well as the recommended sanction. A

- proposed final order reflecting a member board's recommendations shall satisfy the requirements of this rule.
- (b) The Council shall review recommendations from member boards for anti-competitive impacts, administrative consistency, and good governance concerns. The Council may not substitute its judgment in contested enforcement matters for that of a member board where, in the Council's determination, none of the aforementioned concerns are present.
 - (c) The Council may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council may specify the format of the input and assistance requested to satisfy the requirements of this rule.
 - (d) Each member board is authorized to dismiss complaints and approve and enter agreed final orders and informal dispositions; Council ratification is not required. The Executive Director shall report the number of dismissals and agreed orders entered under this rule at Council meetings.
 - (e) Disposition by the Executive Director.
 - (1) The Executive Director is authorized to:
 - (A) dismiss a complaint if the investigator and legal counsel agree that a violation did not occur or that the agency lacks jurisdiction over the complaint;
 - (B) dismiss a complaint recommended for dismissal by a Disciplinary Review Panel;
 - (C) dismiss a complaint following a contested case hearing before SOAH where the ALJ finds no violation of the law has occurred;
 - (D) accept the voluntary resignation of a license;
 - (E) offer, approve, and enter agreed orders if the disciplinary sanction imposed complies with the disciplinary guidelines and relevant schedule of sanctions; and
 - (F) enter an order suspending a license upon receipt of an order suspending a license issued under Chapter 232 of the Family Code. Council ratification is not required.
 - (2) The Executive Director shall report the number of agreed orders, dismissals, resignations, and suspensions ordered, along with a brief summary of the basis for each, to the Council and relevant member board at the next regular meeting.

- (3) The Executive Director must, when offering an agreed order or resignation order prior to an informal conference, advise the respondent of the right to an informal conference and that the matter will be set for an informal conference if requested or if an informal disposition cannot be agreed upon.
- (f) Any person who files a complaint will be notified of the disposition of the complaint. A person who filed a complaint that is dismissed will be notified of the dismissal by letter and the letter will reflect the legal basis or reason for the dismissal. A person who filed a complaint resulting in disciplinary action will be sent a copy of the Council's final order.

Adopted to be effective: September 1, 2020

Subchapter C. Disciplinary Guidelines and Schedule of Sanctions.

884.20. Disciplinary Guidelines and General Schedule of Sanctions.

- (a) Purpose. These disciplinary sanction guidelines are designed to provide guidance in assessing sanctions for violations of the Occupations Code, Chapter 507, and the Council's rules. The purpose of disciplinary sanctions is to protect the public, deter future violations, offer opportunities for rehabilitation if appropriate, punish violators, and deter others from violations. These guidelines are intended to promote consistent sanctions for similar violations, facilitate timely resolution of cases, and encourage settlements.
 - (1) Single Violation. The standard disciplinary sanctions outlined in the applicable schedule of sanctions shall apply to cases involving a single violation, and in which there are no aggravating or mitigating factors.
 - (2) Multiple Violations. The Council may impose more severe or restrictive sanctions for multiple violations.
 - (3) Aggravating and Mitigating Factors. The Council may impose more or less severe or restrictive sanctions, based on any aggravating and/or mitigating factors that are found to apply in a particular case.
 - (4) The standard and minimum disciplinary sanctions outlined below are applicable to persons who are being sanctioned for the first time. The Council may consider more severe or restrictive sanctions if a person has had a sanction assessed against them previously.
 - (5) The maximum disciplinary sanction in all cases is revocation of the license, which may be accompanied

by an administrative penalty of up to \$5,000 per violation. In accordance with §507.352 of the Occupations Code, each day the violation continues or occurs is a separate violation.

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

<u>Council Rule or Violation</u>	<u>Revocation</u>	<u>Suspension</u>	<u>Probated Suspension</u>	<u>Reprimand</u>	<u>Administrative Penalty</u>
§882.30 Display of License					X
§882.31 Advertising Restrictions				X	
§882.32 Duty to Update Name and Address					X
§882.33 Disclosure of Proprietary Examination		X			

Materials or Information Prohibited					
§882.34 Filing of False or Misleading Information with the Council		X			
§884.30 Cooperation with Council Investigations		X			
§884.31 Notice to the Public of Complaint Process					X
§884.32 Reportable Legal Action and Discipline					X

- (d) Additional Conditions. The Council may impose additional conditions or restrictions upon a license deemed necessary to facilitate the rehabilitation and education of the licensee and to protect the public, including but not limited to:
- (1) Consultation with the licensee on matters of ethics rules, laws and standards of practice by a licensed professional approved by the Council;
 - (2) Restrictions on the licensee's ability to provide certain types of services or to provide services to certain classes of patients;
 - (3) Restrictions on the licensee's supervision of others in a particular area of practice;
 - (4) Completion of a specified number of continuing education hours on specified topics approved in advance by the Council in addition to any minimum number required of all licensees as a condition of licensure;
 - (5) Taking and passing with the minimum required score of any examination required by the Council of a licensee; and
 - (6) Undergoing a psychological or medical evaluation by a qualified professional approved in advance by the Council and undergoing any treatment recommended pursuant to the evaluation.
- (e) Aggravating Factors. Aggravating factors are those which may increase the severity of unprofessional conduct, justifying the imposition of a more severe penalty. Such factors include, but are not limited to the following:
- (1) Physical or emotional harm and the type and severity thereof;
 - (2) Economic harm to any individual or entity and the severity thereof;
 - (3) Increased potential for harm to the public;
 - (4) Attempted concealment of misconduct;
 - (5) Premeditated conduct;

- (6) Intentional misconduct;
 - (7) Prior written warnings or written admonishments from any supervisor or governmental agency or official regarding statutes or regulations pertaining to the licensee's practice;
 - (8) Prior misconduct of a similar or related nature;
 - (9) Disciplinary history;
 - (10) Likelihood of future misconduct of a similar nature;
 - (11) Violation of a Council order;
 - (12) Failure to implement remedial measures to correct or alleviate harm arising from the misconduct;
 - (13) Lack of rehabilitative effort or potential; and
 - (14) Improper or inappropriate motive.
- (f) Mitigating Factors. Mitigating factors are those which may reduce the severity of unprofessional conduct. Such factors include, but are not limited to the following:
- (1) Acceptance of responsibility;
 - (2) Self-reporting of unprofessional conduct;
 - (3) Implementation of remedial measures to correct or mitigate harm arising from the unprofessional conduct;
 - (4) Good-faith motive;
 - (5) Rehabilitative efforts or potential; and
 - (6) Prior community service.

Adopted to be effective: September 1, 2020

Amended: September 21, 2022

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

Adopted to be effective: September 1, 2020

Subchapter D. Duties and Responsibilities.

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

Adopted to be effective: September 1, 2020

884.31. Notice to the Public of Complaint Process.

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

NOTICE TO CLIENTS

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

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

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

Adopted to be effective: September 1, 2020

884.32. Reportable Legal Action and Discipline.

- (a) Licensees are required to report legal actions as follows:
 - (1) Any conviction, sentence, dispositive agreement, or order placing the licensee on community supervision or pretrial diversion, must be reported in writing to the Council within thirty days of the underlying event. A report must include the case number, court, and county where the matter is filed, together with a description of the matter being reported. A licensee shall provide copies of court documents upon request from agency staff.

- (2) Any lawsuit brought by or against a licensee concerning or related to the delivery of services regulated by this agency or billing practices by the licensee. A report must include a copy of the initial pleading filed by or served upon the licensee, and must be submitted to the Council within thirty days of either filing by or service upon the licensee.
 - (3) Any administrative or disciplinary action initiated against a licensee by another health regulatory agency in this state or any other jurisdiction, or any agency or office within the federal government, must be reported to the Council by sending notification of the action within thirty days of the licensee receiving notice of the action. A report must include a copy of any complaint, notice of violation, or other documentation received by the licensee from the initiating entity which describes the factual basis for the action. A licensee must also supplement this report to the Council with a copy of any order, letter, or determination setting forth the final disposition of the matter within thirty days following the final disposition.
- (b) A complaint shall be opened if a reported criminal action constitutes grounds for disciplinary action under applicable state or federal law. A complaint may be opened if a reported civil action constitutes grounds for disciplinary action under Council rules.
- (c) Reciprocal Discipline:
- (1) A complaint may be opened upon receipt of a report of discipline against a licensee by another health licensing agency in this state or any other jurisdiction.
 - (2) The Council may impose disciplinary action on a licensee according to its own schedule of sanctions for the conduct forming the basis of the other health licensing agency's disciplinary action.
 - (3) A voluntary surrender of a license in lieu of disciplinary action or during an investigation by another health licensing agency constitutes disciplinary action under this rule.

Adopted to be effective: September 1, 2020

Subchapter E. License Suspension.

884.40. Temporary Suspension of a License.

- (a) In accordance with §507.302 of the Occupations Code, a license shall be temporarily suspended when the Council or

an executive committee of the Council determines that the continued practice by a licensee (respondent) would constitute a continuing and imminent threat to the public welfare.

- (b) An executive committee of the Council shall convene as follows:
 - (1) For each temporary suspension proceeding, the Council shall appoint a three-member executive committee, called a "suspension panel," to consider the information and evidence presented by agency staff. The suspension panel must have at least one member from the same profession as the respondent and a majority of members from the respondent's member board. The suspension panel shall confer with each other and name a chair of the suspension panel.
 - (2) In the event of the recusal of a suspension panel member or the inability of a suspension panel member to attend a temporary suspension proceeding, the presiding officer for the Council may appoint an alternate council member to serve on the suspension panel.
 - (3) The suspension panel may convene in-person or via telephone, video conference, or other electronic means.
- (c) Temporary Suspension Hearing. The meeting at which the suspension panel considers a temporary suspension is a temporary suspension hearing. At the temporary suspension hearing, agency staff shall present evidence and information to the suspension panel that the continued practice by a person licensed by the Council would constitute a continuing and imminent threat to the public welfare. Notice of the temporary suspension hearing shall be sent to the respondent no less than 10 days before the hearing by personal service or by registered or certified mail.
- (d) Order of Temporary Suspension. If a majority of the suspension panel votes to temporarily suspend a license, the suspension shall have immediate effect, and the chair of the suspension panel will sign an Order of Temporary Suspension. The Order of Temporary Suspension shall include a factual and legal basis establishing imminent peril to the public health, safety, or welfare, as required by §2001.054(c-1) of the Government Code. The Order shall be sent to the respondent by first-class mail or email.
- (e) Temporary Suspension Without Notice. In accordance with §507.302(b) of the Occupations Code, a license may be suspended without notice to the respondent if at the time of the suspension, agency staff request a hearing before SOAH

to be held as soon as practicable but no later than 14 days after the date of the temporary suspension. The hearing is referred to as the "probable cause hearing."

- (f) Notice, Continuance, and Waiver of Probable Cause Hearing. Agency staff shall serve notice of the probable cause hearing upon the respondent in accordance with SOAH's rules. The respondent may request a continuance or waiver of the probable cause hearing. If the ALJ grants the continuance request or the respondent waives the probable cause hearing, the suspension remains in effect until the suspension is considered by SOAH at the continued probable cause hearing or at the final hearing. If the probable cause hearing is not held within 14 days and the respondent did not request a continuance or waive the probable cause hearing, the suspended license is reinstated.
- (g) Probable Cause Hearing. At the probable cause hearing, an ALJ shall determine whether there is probable cause to continue the temporary suspension of the license and issue an order on that determination.
- (h) Final Hearing. The State Office of Administrative Hearings shall hold a hearing no later than 61 days from the date of the temporary suspension. At this hearing, agency staff shall present evidence supporting the continued suspension of the license and may present evidence of any additional violations related to the licensee. This hearing is referred to as the "final hearing."
- (i) Notice and Continuance of Final Hearing. Agency staff shall send notice of the final hearing in accordance with SOAH's rules. The respondent may request a continuance or waive the final hearing. If a final hearing is not held within 61 days of the date of the temporary suspension and the respondent did not request a continuance or waive the final hearing, the license is reinstated.
- (j) Proposal for Decision. Following the final hearing, the ALJ shall issue a PFD on the suspension. The PFD may also address any other additional violations related to the licensee.
- (k) A temporary suspension takes effect immediately and shall remain in effect until:
 - (1) a final or superseding order of the Council is entered;
 - (2) the ALJ issues an order determining that there is no probable cause to continue the temporary suspension of the license; or
 - (3) a SOAH hearing is not timely held.

Adopted to be effective: September 1, 2020

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

- (a) On receipt of a final court order or order from a Title IV-D agency (e.g. the Texas Attorney General) suspending a license due to failure to pay child support, the Executive Director shall immediately determine if the Council has issued a license to the obligor named on the order, and, if a license has been issued:
 - (1) enter an order of suspension of the license;
 - (2) report the suspension as appropriate; and
 - (3) demand surrender of the suspended license.
- (b) The Council shall implement the terms of an order suspending a license without additional review or hearing. The Council will provide notice of suspension as appropriate to the licensee and others concerned with the license.
- (c) The Council may not modify, remand, reverse, vacate, or stay an order suspending a license issued under Chapter 232 of the Family Code and may not review, vacate, or reconsider the terms of a final order suspending the license.
- (d) A licensee who is the subject of a court order or order from a Title IV-D agency suspending the individual's license is not entitled to a refund for any fee paid to the Council.
- (e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section shall comply with the normal renewal procedures.
- (f) An individual who continues to engage in the practice of marriage and family therapy, professional counseling, psychology, or social work after the implementation of the order suspending the individual's license is liable for the same civil and criminal penalties provided for engaging in the licensed activity without a license or while a license is suspended.
- (g) On receipt of a court order or order from a Title IV-D agency vacating or staying an order suspending a license, the Executive Director shall promptly issue the affected license to the individual if the individual is otherwise qualified for the license.
- (h) The individual must pay a reinstatement fee in an amount equal to the renewal fee for the license prior to issuance of the license.

Adopted to be effective: September 1, 2020

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

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

- (a) In accordance with §501.158 of the Occupations Code, based upon the Council's reasonable belief that an applicant or person licensed under Chapter 501 is not physically or mentally competent to provide psychological services with reasonable skill and safety to patients or has a physical or mental disease or condition that would impair the person's competency to provide psychological services, the Council may request the person submit to:
 - (1) a physical examination by a physician approved by the Council; or
 - (2) a mental examination by a physician or psychologist approved by the Council.
- (b) The Council may carry out its functions under this rule by and through an executive committee of the Council, which may convene as follows:
 - (1) For each competency evaluation proceeding, the Council may appoint a three-member executive committee, called a "competency evaluation panel," to issue requests for physical or mental examinations, conduct show cause hearings, and issue orders determining whether a person's failure to submit to an examination was justified or unjustified. The competency evaluation panel must consist of a majority from TSBEP with at least one member holding the same license as the respondent. The competency evaluation panel shall confer with each other and name a chair for the panel.
 - (2) In the event of the recusal of a competency evaluation panel member or the inability of a panel member to attend a competency evaluation proceeding, the presiding officer for the Council may appoint an alternate council member to serve on the competency evaluation panel.
 - (3) The competency evaluation panel may convene in-person or via telephone, video conference, or other electronic means.
- (c) If the person should refuse, ignore, or fail to comply with the Council's request, the Council shall issue an order requiring the person to show cause for the person's refusal at a hearing on the order scheduled for not later than the

thirtieth (30) day after the date the notice is served on the person. Notice shall be provided by either personal service or by registered mail, return receipt requested. The meeting at which the Council considers a person's failure to comply with an examination request is a "show cause hearing." At the show cause hearing, agency staff may present evidence and information to the Council that demonstrates the reasonable belief that an examination is necessary and may also present evidence of any additional violations related to the person. The person may appear, at the show cause hearing, in person and by counsel and present evidence to justify the person's refusal to submit to examination as well as respond to any additional violations.

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

Adopted to be effective: September 1, 2020

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

- (a) In accordance with §501.411 of the Occupations Code, the Council may issue and establish the terms of a non-disciplinary remedial plan to resolve the investigation of a complaint against a person licensed under Chapter 501.
- (b) A remedial plan may not contain a provision that:
 - (1) revokes, suspends, limits, or restricts a person's license or other authorization to practice psychology;
 - or

- (2) assesses an administrative penalty against a person.
- (c) A remedial plan may not be imposed to resolve a complaint:
 - (1) concerning significant patient harm; or
 - (2) in which the appropriate resolution may involve a restriction or limitation on the manner in which a license holder practices psychology or the suspension or revocation of a license.
- (d) The Council may not issue a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with the Council for the resolution of a different complaint.
- (e) The Council may issue a remedial plan to resolve a complaint against a license holder in which the appropriate resolution involves a reprimand, administrative penalty, or a combination thereof under the appropriate schedule of sanctions.
- (f) The Council may assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan.
- (g) In accordance with §507.205 of the Occupations Code, a remedial plan is confidential complaint information and not subject to public disclosure.

Adopted to be effective: September 1, 2020

Subchapter G. Compliance.

884.55. Monitoring Compliance with Disciplinary Orders.

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

Adopted to be effective: September 1, 2020

Subchapter H. Contested Cases.

884.60. Depositions, Subpoenas, and Witness Expenses.

- (a) In accordance with §§2001.089 and 2001.094 of the Government Code and §507.206 of the Occupations Code, on the written request of any party, the executive director may

issue a commission for a deposition or a subpoena to require the attendance of witnesses or the production of tangible items in a contested case docketed at SOAH.

- (b) If the commission or subpoena is for a witness to attend a deposition or a hearing, the written request shall contain the name and address of the witness and the date and location where the witness must appear.
- (c) If the subpoena is for the production of tangible items, the written request shall contain a description of the items, the name and address of the person who has custody of the items, and the date and location where they must be produced.
- (d) Each subpoena or commission request shall contain a statement why it should be issued.
- (e) The executive director shall issue a subpoena or commission if there is good cause.
- (f) A witness who is not a party and who is subpoenaed to appear at a deposition or hearing is entitled to reimbursement for expenses in accordance with Texas Government Code §2001.103.
- (g) The party or agency at whose request a witness appears or the deposition is taken shall be responsible for payment of the expenses required by this rule.
- (h) A party requesting a commission or subpoena shall deposit funds with the Council, in the form of a check or money order made payable to the witness, sufficient to cover the anticipated expenses for complying with the subpoena. The executive director may not issue a party's subpoena or commission until sufficient funds are deposited.
- (i) The Council shall forward the deposited funds to the witness via certified mail, along with a copy of the subpoena or commission. Alternatively, if the party requesting the subpoena or commission wishes to serve the witness by another means then the deposited funds shall be returned to that party, via regular or certified mail, along with a copy of the subpoena or commission to be served by the requesting party.
- (j) In accordance with §§2001.089 and 2001.094 of the Government Code and §507.206 of the Occupations Code, the executive director or presiding member of the Council has the exclusive authority to issue a commission or subpoena, as well as approve or deny a request for the same.

Adopted to be effective: November 14, 2024

884.61. Contested Case Hearing Costs.

- (a) Costs associated with a contested case hearing before SOAH shall be determined according to the rules in 1 TAC §155.423 unless determined in accordance with subsection (b) of this section.
- (b) On the written request by a party to a case or on request of the ALJ, a written transcript of all or part of the proceedings shall be prepared. The cost of the transcript is borne by the requesting party. This section does not preclude the parties from agreeing to share the costs associated with the preparation of a transcript. If only the ALJ requests a transcript, costs will be assessed to the respondent(s) or applicant(s), as appropriate.

Adopted to be effective: September 1, 2020

884.62. Final Decision and Order.

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

Adopted to be effective: September 1, 2020

884.63. Motion for Rehearing.

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

Adopted to be effective: September 1, 2020

884.65. Corrected Final Decision and Order.

The Executive Director may enter a corrected order to correct a clerical mistake in an order of the Council.

Adopted to be effective: September 1, 2020

FEES

885.1. Executive Council Fees.

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

<u>Fees</u>	<u>Total Fee</u>	<u>Base</u>	<u>Texas.gov</u>	<u>OPP</u>	<u>eStrategy</u>
<u>APPLICATION FEES</u>					
<u>Social Workers</u>					
LBSW or LMSW Application	\$ 109.00	\$ 100.00	\$ 4.00	\$ 5.00	
LCSW Application (LMSW-AP applications no longer accepted)	\$ 120.00	\$ 111.00	\$ 4.00	\$ 5.00	
Upgrade from LBSW to LMSW	\$ 24.00	\$ 20.00	\$ 4.00		
Upgrade from LMSW to LCSW	\$ 24.00	\$ 20.00	\$ 4.00		
Independent Practice Recognition	\$ 20.00	\$ 20.00			
Supervisor Status Application	\$ 54.00	\$ 50.00	\$ 4.00		
Temporary License Application	\$ 30.00	\$ 30.00			
<u>Marriage and Family Therapists</u>					
Initial LMFT Associate Application	\$ 159.00	\$ 150.00	\$ 4.00	\$ 5.00	
Upgrade from LMFT Associate to LMFT	\$ 90.00	\$ 86.00	\$ 4.00		
Initial LMFT Application	\$ 161.00	\$ 150.00	\$ 6.00	\$ 5.00	
Supervisor Status Application	\$ 54.00	\$ 50.00	\$ 4.00		
Temporary License Application	\$ 103.00	\$ 100.00	\$ 3.00		
<u>Professional Counselors</u>					

LPC Associate/LPC/Provisional License Application	\$ 165.00	\$ 154.00	\$ 6.00	\$ 5.00	
Supervisor Status Application	\$ 54.00	\$ 50.00	\$ 4.00		
Art Therapy Designation	\$ 20.00	\$ 20.00			
<u>Psychologists/Psychological Associates/School Psychologist</u>					
LPA Application	\$ 144.00	\$ 135.00	\$ 4.00	\$ 5.00	
LP Application (including reciprocity applications)	\$ 425.00	\$ 410.00	\$ 10.00	\$ 5.00	
School Psychologist Application	\$ 252.00	\$ 239.00	\$ 8.00	\$ 5.00	
Temporary License Application	\$ 103.00	\$ 100.00	\$ 3.00		
<u>RENEWAL FEES</u>					
<u>Social Workers</u>					
LBSW/LMSW Renewal	\$ 108.00	\$ 102.00	\$ 4.00	\$ 2.00	
LMSW-AP/LCSW Renewal	\$ 108.00	\$ 102.00	\$ 4.00	\$ 2.00	
Additional Renewal Fee for Independent Recognition	\$ 20.00	\$ 20.00			
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00			
<u>Marriage and Family Therapists</u>					
LMFT Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00			
<u>Professional Counselors</u>					
LPC Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00			
<u>Psychologists/Psychological Associates/School Psychologist</u>					
LPA Renewal	\$ 238.00	\$ 230.00	\$ 6.00	\$ 2.00	
LP Renewal	\$ 295.00	\$ 285.00	\$ 8.00	\$ 2.00	
School Psychologist Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
Over 70 Renewal – Applicable only to licensees who turned 70 by 8/31/2020	\$ 26.00	\$ 20.00	\$ 4.00	\$ 2.00	
Additional Renewal Fee for HSP Designation	\$ 40.00	\$ 40.00			
<u>EXAMINATION FEES</u>					
<u>Social Workers</u>					
Jurisprudence Exam	\$ 39.00				\$ 39.00
<u>Marriage and Family Therapists</u>					
Jurisprudence Exam	\$ 39.00				\$ 39.00
<u>Professional Counselor</u>					
Jurisprudence Exam	\$ 39.00				\$ 39.00

<u>Psychologists/Psychological Associates/School Psychologist</u>					
Jurisprudence Exam	\$ 39.00				\$ 39.00
<u>MISCELLANEOUS FEES</u>					
Duplicate Renewal Permit	\$ 10.00	\$ 8.00	\$ 2.00		
Written State to State Verification of Licensure	\$ 50.00	\$ 48.00	\$ 2.00		
Returned Check Fee	\$ 25.00				
Criminal History Evaluation	\$ 150.00	\$ 150.00			
Reinstatement of License	\$ 510.00	\$ 500.00	\$ 10.00		
Request for Inactive Status	\$ 106.00	\$ 100.00	\$ 4.00	\$ 2.00	
Inactive Status Renewal (biennial)	\$ 106.00	\$ 100.00	\$ 4.00	\$ 2.00	
Update Doctoral Degree on License	\$ 54.00	\$ 50.00	\$ 4.00		
Request 11x14 Wall License	\$ 50.00	\$ 48.00	\$ 2.00		
Request to Reactivate License from Inactive Status	equal to current renewal fee				
Late fee for license expired 90 days or less	equal to 1.5 times base renewal fee (plus applicable Texas.gov and OPP fees)				
Late fee for license expired more than 90 days, but less than one year	Equal to 2 times the base renewal fee (plus applicable Texas.gov and OPP fees)				

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

- (d) Open Records Fees. In accordance with §552.262 of the Government Code, the Council adopts by reference the rules developed by the Office of the Attorney General in 1 TAC Part 3, Chapter 70 (relating to Cost of Copies of Public Information) for use by each governmental body in determining charges under Government Code, Chapter 552 (Public Information) Subchapter F (Charges for Providing Copies of Public Information).
- (e) Military Exemption for Fees. All licensing and examination base rate fees payable to the Council are waived for applicants who are:
 - (1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all licensure requirements; or
 - (2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this state.

Adopted to be effective: September 1, 2020

Amended: February 9, 2021; September 19, 2021; November 23, 2022; November 14, 2024; July 20, 2025; March 18, 2026

TEXAS STATE BOARD OF EXAMINERS **OF PROFESSIONAL COUNSELORS**

Subchapter A. General Provisions.

681.1. Purpose. The purpose of this chapter is to implement the provisions of Texas Occupations Code, Chapter 503 (the Licensed Professional Counselor Act, or the Act), concerning the licensing and regulation of professional counselors.

Adopted to be effective: September 1, 2003

Amended: April 27, 2008; December 12, 2013; February 28, 2019

681.2. Definitions. The following words and terms, as used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

- (1) Accredited school--An institution of higher education accredited by a regional accrediting agency recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education.
- (2) Act--The Licensed Professional Counselor Act, Texas Occupations Code, Chapter 503.
- (3) Art therapy—A form of counseling in which clients therapist, use art media, the creative process, and the resulting artwork to explore their feelings, reconcile emotional conflicts, foster self-awareness, manage behavior, develop social skills, improve reality orientation, reduce anxiety and increase self-esteem.
- (4) Board--The Texas State Board of Examiners of Professional Counselors.
- (5) Client(s)--A person(s) who requests and receives counseling services from a licensee or who has engaged in a therapeutic relationship with a licensee.
- (6) Consent for services--Process for receiving permission from the legally authorized person who agrees to services.
- (7) Consent Form--A document executed by the legally authorized person to ensure the client is aware of fees and arrangements for payment; counseling purposes, goals, and techniques; restrictions placed on the license by the Council; limits on confidentiality; intent of the licensee to use another individual to provide counseling treatment intervention to the client; supervision of the licensee by another licensed health

care professional including the name, address, contact information, and qualifications of the supervisor; and the name, address, and telephone number of the Council for the purpose of reporting violations of the Act or this chapter.

- (8) Council--The Texas Behavioral Health Executive Council.
- (9) Counseling-related field--A mental health discipline using human development, psychotherapeutic, and mental health principles including, but not limited to, clinical or counseling psychology, psychiatry, social work, marriage and family therapy, and counseling and guidance. Non-counseling related fields include, but are not limited to, sociology, education, administration, dance therapy and theology.
- (10) Executive Director--The executive director for the Texas Behavioral Health Executive Council. The executive director may delegate responsibilities to other staff members.
- (11) Direct client contact--Time spent counseling clients.
- (12) Health care professional--Any person licensed, certified, or registered by the state in a health related profession.
- (13) Independent practice—The practice of providing professional counseling services to a client without the supervision of an LPC-S.
- (14) Indirect hours--Time spent in management, administration or other aspects of counseling service ancillary to direct client contact.
- (15) Jurisprudence exam--The Texas State Board of Examiners of Licensed Professional Counselors Jurisprudence exam. An online exam based upon the statutes and rules relating to the practice of counseling.
- (16) License--An LPC license, LPC license with art therapy specialty designation, or LPC Associate license issued by the Council.
- (17) Licensee---A person who holds an LPC license, LPC license with art therapy specialty designation, or LPC Associate license.
- (18) LPC--Licensed Professional Counselor. A person holding an LPC license as a professional counselor with authority to practice in independent practice.
- (19) LPC Associate--Licensed Professional Counselor Associate. A person who holds an LPC Associate license to practice counseling only under a board

Council-approved supervisor and not as an independent practitioner.

- (20) Recognized religious practitioner--A rabbi, clergyman, or person of similar status who is a member in good standing of and accountable to a denomination, church, sect or religious organization legally recognized under the Internal Revenue Code, 26 U.S.C. §501(c)(3) and other individuals participating with them in pastoral counseling if:
- (A) the counseling activities are within the scope of the performance of their regular or specialized ministerial duties and are performed under the auspices of sponsorship of the legally recognized denomination, church, sect, religious organization or an integrated auxiliary of a church as defined in Federal Tax Regulations, 26 Code of Federal Regulations, L1.6033-2(g)(i)(2012);
 - (B) the individual providing the service remains accountable to the established authority of that denomination, church, sect, religious organization or integrated auxiliary; and
 - (C) the person does not use the title of or hold himself or herself out as a professional counselor.
- (21) Supervisor--An LPC approved by the Council as meeting the requirements set out in §681.93 of this title (relating to Supervisor Requirements) to supervise an LPC Associate.

Adopted to be effective: September 1, 2003

Amended: November 21, 2004; September 1, 2005; April 27, 2008; May 20, 2012; December 12, 2013; January 12, 2015; July 14, 2016; February 28, 2019; November 19, 2020; February 27, 2022

681.3. Meetings.

- (a) The board will hold at least two regular meetings and additional meetings as necessary during each fiscal year.
- (b) The chair may call meetings after consultation with board members or by a majority of members voting at a regular meeting.
- (c) Meetings will be announced and conducted under the provisions of the Texas Open Meetings Act, Texas Government Code, Chapter 551.

Adopted to be effective: September 1, 2003

Amended: April 27, 2008; December 12, 2013, February 28, 2019

681.4. Transaction of Official Business. The board will transact official business only when in a legally constituted meeting with a quorum present.

Adopted to be effective: September 1, 2003

Amended: September 1, 2005; April 27, 2008; December 12, 2013; February 28, 2019; November 19, 2020

681.5. Agendas.

- (a) Prior to each meeting the executive director or designee will prepare and submit an agenda to each member of the board which includes items required by members, items required by law, and other matters of broad business which have been approved for discussion by the chair.
- (b) The official agenda of a meeting will be filed with the Secretary of State as required by law.

Adopted to be effective: September 1, 2003

Amended: April 27, 2008; December 12, 2013; February 28, 2019; November 19, 2020

681.7. Elections.

- (a) At the meeting held nearest to August 31 of each year, the board will elect a vice-chair.
- (b) A vacancy which occurs in the office of vice-chair may be filled at any regular meeting

Adopted to be effective: September 1, 2003

Amended: April 27, 2008; December 12, 2013; February 28, 2019

681.8. Officers.

- (a) The chair will preside at all meetings at which he or she is in attendance and perform all duties prescribed by law or this chapter.
- (b) The chair is authorized by the board to make day-to-day decisions regarding board activities in order to facilitate the responsiveness and effectiveness of the board.
- (c) The vice-chair will perform the duties of the chair in case of the absence or disability of the chair.
- (d) In case the office of the chair becomes vacant, the vice-chair will serve until a successor is appointed.

Adopted to be effective: September 1, 2003

Amended: April 27, 2008; December 12, 2013; February 28, 2019

681.9. Committees.

- (a) The board or the chair may establish committees deemed necessary to fulfill board responsibilities.
- (b) The chair may appoint members of the board to serve on committees and will designate a chair for each committee.
- (c) Only members of the board may be appointed to a board committee.

- (d) Committee chairs will preside at all committee meetings and will make regular reports to the board.
- (e) Committees may direct all reports or other materials to the executive director or designee for distribution.
- (f) Committees will meet when called by the committee chair or when so directed by the board.
- (g) Each committee will consist of at least one public member and one professional member, unless the board chair or vice chair authorizes otherwise

Adopted to be effective: September 1, 2003

Amended: May 4, 2006; April 27, 2008; December 12, 2013; July 14, 2016; February 28, 2019; November 19, 2020

681.11 Reimbursement for Expenses. A board member is entitled to receive travel reimbursement as provided by the Texas General Appropriations Act.

Adopted to be effective: September 1, 2003

Amended: April 27, 2008;

Subchapter B. Rules of Practice

681.31. Counseling Methods and Practices. The use of specific methods, techniques, or modalities within the practice of professional counseling is limited to professional counselors appropriately trained and competent in the use of such methods, techniques, or modalities. Authorized counseling methods, techniques and modalities may include, but are not restricted to, the following:

- (1) individual counseling, which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, and affective methods and strategies to achieve mental, emotional, physical, social, moral, educational, career, and spiritual development and adjustment through the life span;
- (2) group counseling, which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, and affective methods and strategies to achieve mental, emotional, physical, social, moral, educational, spiritual, and career development and adjustment through the life span;
- (3) marriage/couples counseling, which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, affective and family systems methods and strategies to achieve resolution of problems associated with cohabitation and interdependence of adults living as couples;
- (4) family counseling, which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, affective and family systems methods and strategies with families to achieve mental, emotional, physical, moral, social, educational, spiritual, and career development and adjustment through the life span;
- (5) addictions counseling, which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, affective methods and strategies, and 12-step methods to achieve abstinence from the addictive substances and behaviors by the client;
- (6) rehabilitation counseling, which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, and affective methods and strategies to achieve adjustment to a disabling condition and to reintegrate the individual into the mainstream of society;
- (7) education counseling, which uses formal and informal counseling methods and assessments and appraisal

- instruments for the purpose of determining strength, weakness, mental condition, emotional stability, intellectual ability, interest, skill, aptitude, achievement, and other personal characteristics of individuals for the selection of and placement in educational settings, preschool through postdoctoral study;
- (8) career development counseling, which uses formal and informal counseling methods and appraisal instruments for the purpose of determining intellectual ability, interest, skill, aptitude, achievement, mental condition, emotional fitness, and other personal characteristics for occupational, vocational, and career selection and placement throughout the life span;
 - (9) sexual issues counseling, which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, and affective methods and strategies in the resolution of sexual disorders;
 - (10) referral counseling, which uses the processes of evaluating and identifying needs of clients to determine the advisability of referral to other specialists, informing the client of such judgment and communicating as requested or deemed appropriate to such referral sources;
 - (11) psychotherapy, which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, and affective methods and/or strategies to assist clients in their efforts to recover from mental or emotional issues;
 - (12) play therapy, which uses play and play media as the child's natural medium of self-expression, and verbal tracking of the child's play behaviors and feelings as a part of the therapist's role in helping children overcome their social, emotional, and behavioral issues;
 - (13) hypnotherapy, which uses the principles of hypnosis and post-hypnotic suggestion in the treatment of mental and emotional issues and addictions;
 - (14) expressive modalities used in the treatment of interpersonal, emotional or mental health issues, chemical dependency, or human developmental issues. Modalities include but are not limited to, music, art, dance movement, or the use of techniques employing animals in providing treatment;

- (15) biofeedback, which uses electronic equipment to monitor and provide feedback regarding an individual's physiological responses. The counselor who uses biofeedback must be able to prove academic preparation and supervision in the use of the equipment as a part of the counselor's academic program or the substantial equivalent provided through approved continuing education;
- (16) assessing and appraising, in compliance with §681.43 of this title (relating to Testing), which uses formal and informal instruments and procedures, for which the counselor has received appropriate training and supervision, in individual and group settings for the purposes of determining the client's strengths and weaknesses, mental status, emotional stability, intellectual ability, interests, aptitudes, achievement level and other characteristics for diagnosing mental health disorders; but does not permit the diagnosis of a physical condition or physical disorder;
- (17) consulting, which uses the application of specific principles and procedures in counseling to provide assistance in understanding and solving current or potential problems that the consultee may have in relation to a third party, whether individuals, groups, or organizations but not considered direct client contact for LPC Associates; and
- (18) crisis counseling, which focuses on short term counseling interventions to address immediate situations including factors such as safety and immediate needs.

Adopted to be effective: November 19, 2020

681.35. Informed Consent.

- (a) Regardless of setting, a licensee must provide counseling only in the context of a professional relationship. Prior to providing services, a licensee must obtain from an individual a signed informed consent, signed written receipt of information, or in the case of involuntary treatment a copy of the appropriate court order, including the following:
 - (1) fees and arrangements for payment;
 - (2) counseling purposes, goals, and techniques;
 - (3) any restrictions placed on the license by the Council;
 - (4) the limits on confidentiality;
 - (5) any intent of the licensee to use another individual to provide counseling treatment intervention to the client;

- (6) supervision of the licensee by another licensed health care professional including the name, address, contact information and qualifications of the supervisor;
 - (7) the name, address and telephone number of the Council for the purpose of reporting violations of the Act or this chapter; and
 - (8) the established plan for the custody and control of the client's mental health records in the event of the licensee's death or incapacity, or the termination of the licensee's counseling practice.
- (b) A licensee must inform the client in writing of any changes to the items in subsection (a) of this section, prior to initiating the change.
 - (c) Prior to the commencement of counseling services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order, as well as any applicable part of the divorce decree. A licensee must maintain these documents in the client's record and abide by the documents at all times. When federal or state statutes provide an exemption to secure consent of a parent or guardian prior to providing services to a minor, a licensee must follow the protocol set forth in such federal or state statutes.
 - (d) A licensee acting within the scope of employment with an agency or institution is not required to obtain a signed informed consent, but must document, in writing, that the licensee informed the client of the information required by subsection (a) of this section and that the client consented.

Adopted to be effective: September 21, 2023

681.36. Client Records.

- (a) For each client, a licensee must keep accurate records of:
 - (1) signed informed consent, signed written receipt of information, or, in the case of involuntary treatment, a copy of the appropriate court order;
 - (2) intake assessment;
 - (3) dates of counseling treatment intervention;
 - (4) principal treatment methods;
 - (5) progress notes;
 - (6) treatment plan; and
 - (7) billing information.
- (b) In the absence of applicable state and federal laws, rules or regulations, records held by a licensee must be kept for a minimum of seven (7) years from the date of termination of services with the client, or five (5) years after the client reaches the age of majority, whichever is greater.

- (c) Records created by a licensee during the scope of employment with an agency or institution must be maintained by the licensee unless the records are maintained by the employer.

Adopted to be effective: September 21, 2023

681.37. Billing and Financial Arrangements.

- (a) Billing Requirements.
 - (1) A licensee must bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual written agreement.
 - (2) Relationships between a licensee and any other person used by the licensee to provide services to a client must be so reflected on billing documents.
 - (3) Upon the written request of a client, a client's guardian, or a client's parent (sole managing, joint managing or possessory conservator) if the client is a minor, a licensee must provide, in plain language, a written explanation of the types of treatment and charges for counseling treatment intervention previously made on a bill or statement for the client. This requirement applies even if the charges are to be paid by a third party.
 - (4) A licensee may not knowingly overcharge a client.
 - (5) A licensee may not submit to a client or a third party payor a bill for counseling treatment intervention the licensee knows or should know is improper, unreasonable, or unnecessary. However, nothing in this rule should be construed to prevent a licensee from submitting a bill for an unkept appointment.
- (b) In accordance with §503.401(a)(4) of the Act, a licensee must not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting clients or patronage.
- (c) A licensee employed or under contract with a chemical dependency facility or a mental health facility must comply with the requirements in the Texas Health and Safety Code, §164.006, relating to soliciting and contracting with certain referral sources.

Adopted to be effective: September 21, 2023

Amended: March 17, 2025

681.38. Conflicts, Boundaries, Dual Relationships, and Termination of Relationships.

- (a) A licensee must not engage in activities for the licensee's personal gain at the expense of a client.
- (b) A licensee may promote the licensee's personal or business activities to a client if such activities, services or products are to facilitate the counseling process or help achieve the client's counseling goals. Prior to engaging in any such activities, services or product sales with the client, the licensee must first inform the client of the licensee's personal and/or business interest therein. A licensee must not exert undue influence in promoting such activities, services or products.
- (c) A licensee must set and maintain professional boundaries.
- (d) Except as provided by this subchapter, non-therapeutic relationships with clients are prohibited.
 - (1) A non-therapeutic relationship is any non-counseling activity initiated by either the licensee or client that results in a relationship unrelated to therapy.
 - (2) A licensee may not engage in a non-therapeutic relationship with a client if the relationship begins less than two (2) years after the end of the counseling relationship.
 - (3) A licensee may not engage in a romantic relationship or sexual contact with a client within five (5) years after the end of the counseling relationship.
 - (4) For purposes of paragraphs (2) and (3) of this subsection, the licensee must be able to demonstrate the relationship was consensual, not the result of exploitation by or on the part of the licensee, and that the non-therapeutic relationship is not detrimental to the client in light of all relevant factors, including, but not limited to, the factors set forth in §681.42(b)(4)(A) - (G) of this title (relating to Sexual Misconduct).
 - (5) The licensee must not provide counseling services to previous or current:
 - (A) family members;
 - (B) personal friends;
 - (C) educational associates; or
 - (D) business associates.
 - (6) The licensee must not give or accept a gift from a client or a relative of a client valued at more than \$50, borrow or lend money or items of value to clients or relatives of clients, or accept payment in the form of

- goods or services rendered by a client or relative of a client.
- (7) The licensee must not enter into a non-professional relationship with a client's family member or any person having a personal or professional relationship with a client if the licensee knows or reasonably should have known such a relationship could be detrimental to the client.
 - (e) The licensee must not knowingly offer or provide counseling to an individual concurrently receiving counseling treatment intervention from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent therapy, the licensee must request release from the client to inform the other professional and strive to establish positive and collaborative professional relationships.
 - (f) A licensee must terminate a professional counseling relationship when it is reasonably clear the client is not benefiting from the relationship.
 - (g) Upon termination of a relationship if professional counseling is still necessary, the licensee must take reasonable steps to facilitate the transfer to appropriate care.

Adopted to be effective: September 21, 2023

681.41. General Ethical Requirements.

- (a) A licensee must not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the licensee's services, including, but not limited to:
 - (1) the effectiveness of services;
 - (2) the licensee's qualifications, capabilities, background, training, experience, education, professional affiliations, fees, products, or publications; or
 - (3) the practice or field of counseling.
- (b) A licensee must not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the services of a mental health organization or agency, including, but not limited to, the effectiveness of services, qualifications, or products.
- (c) Technological means of communication may be used to facilitate the therapeutic counseling process.
- (d) A licensee may take reasonable action to inform medical or law enforcement personnel if the licensee determines there is a probability of imminent physical injury by the client to the client or others, or there is a probability of immediate mental or emotional injury to the client.

- (e) The licensee must take reasonable precautions to protect clients from physical or emotional harm resulting from interaction:
 - (1) within a group; or
 - (2) individual counseling.
- (f) A licensee must not evaluate any individual's mental, emotional, or behavioral condition unless the licensee has personally interviewed the individual or the licensee discloses in the evaluation the licensee has not personally interviewed the individual.
- (g) A licensee must not knowingly overtreat a client.
- (h) A licensee must not aid or abet the unlicensed practice of professional counseling by a person required to be licensed under the Act.
- (i) A licensee must report to the Council knowledge of any unlicensed practice of counseling.
- (j) A licensee or an applicant must not participate in the falsification of any materials submitted to the Council.
- (k) A licensee must not provide services while impaired by a physical, mental, or medical condition or by medication, drugs or alcohol.

Adopted to be effective: November 19, 2020

Amended: November 21, 2021; September 21, 2023; March 17, 2025

681.42. Sexual Misconduct.

- (a) For the purpose of this section, the following terms have the following meanings.
 - (1) "Mental health provider" means a licensee or any other licensed mental health professional, including a licensed social worker, a chemical dependency counselor, a licensed marriage and family therapist, a physician, a psychologist, or a member of the clergy. Mental health provider also includes employees of these individuals or employees of a treatment facility.
 - (2) Sexual contact means:
 - (A) deviate sexual intercourse as defined by the Texas Penal Code, §21.01;
 - (B) sexual contact as defined by the Texas Penal Code, §21.01;
 - (C) sexual intercourse as defined by the Texas Penal Code, §21.01; or
 - (D) requests or offers by a licensee for conduct described by subparagraph (A), (B), or (C) of this paragraph.
 - (3) "Sexual exploitation" means a pattern, practice, or scheme of conduct, including sexual contact, that can

reasonably be construed as being for the purposes of sexual arousal gratification or sexual abuse of any person. The term does not include obtaining information about a client's sexual history within standard accepted practice while treating a sexual or relationship dysfunction.

- (4) "Therapeutic deception" means a representation by a licensee that sexual contact with, or sexual exploitation by, the licensee is consistent with, or a part of, a client's or former client's counseling.
- (b) A licensee must not engage in sexual contact with or sexual exploitation of a person who is:
- (1) a client;
 - (2) an LPC Associate supervised by the licensee; or
 - (3) a student of a licensee at an educational institution at which the licensee provides professional or educational services.
 - (4) Sexual contact that occurs more than five years after the termination of the client relationship, cessation of supervision of an LPC Associate, or termination of professional or educational services provided to a student of the licensee at a post-secondary educational institution will not be deemed a violation of this section, if the conduct is consensual, not the result of sexual exploitation, and not detrimental to the client. The licensee must demonstrate there has been no exploitation in light of all relevant factors, including, but not limited to:
 - (A) the amount of time that has passed since therapy terminated;
 - (B) the nature and duration of the therapy;
 - (C) the circumstances of termination;
 - (D) the client's, LPC Associate's, or student's personal history;
 - (E) the client's, LPC Associate's, or student's current mental status;
 - (F) the likelihood of adverse impact on the client, LPC Associate, or student and others; and
 - (G) any statements or actions made by the licensee during the course of therapy, supervision, or educational services suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the client, LPC Associate, or student.
- (c) A licensee must not practice therapeutic deception of a client.

- (d) It is not a defense under subsections (b) - (c) of this section, the sexual contact, sexual exploitation, or therapeutic deception with the client, LPC Associate, or student occurred:
 - (1) with the consent of the client, LPC Associate, or student;
 - (2) outside the professional counseling sessions of the client or student; or
 - (3) off the premises regularly used by the licensee for the professional, supervisory, or educational services provided to the client, LPC Associate, or student.
- (e) The following may constitute sexual exploitation if done for the purpose of sexual arousal or gratification or sexual abuse of any person:
 - (1) sexual harassment, sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, and:
 - (A) is offensive or creates a hostile environment, and the licensee knows, should know, or is told this; or
 - (B) is sufficiently severe or intense to be abusive to a reasonable person in the context;
 - (2) any behavior, gestures, or expressions which may reasonably be interpreted as seductive or sexual;
 - (3) sexual comments about or to a person, including making sexual comments about a person's body;
 - (4) making sexually demeaning comments about an individual's sexual orientation;
 - (5) making comments about potential sexual performance except when the comment is pertinent to the issue of sexual function or dysfunction in counseling;
 - (6) requesting details of sexual history or sexual likes and dislikes when not necessary for counseling of the individual;
 - (7) initiating conversation regarding the sexual problems, preferences, or fantasies of the licensee;
 - (8) kissing or fondling;
 - (9) making a request for a date;
 - (10) any other deliberate or repeated comments, gestures, or physical acts not constituting sexual intimacies but of a sexual nature;
 - (11) any bodily exposure of genitals, anus or breasts;
 - (12) encouraging another to masturbate in the presence of the licensee; or
 - (13) masturbation by the licensee when another is present.
- (f) A licensee must report sexual misconduct as follows:

- (1) If a licensee has reasonable cause to suspect a client, LPC Associate, or student has been the victim of sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health provider, or if a client, LPC Associate, or student alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider, the licensee must report the alleged conduct not later than the third business day after the date the licensee became aware of the conduct or the allegations to:
 - (A) the prosecuting attorney in the county in which the alleged sexual exploitation, sexual contact or therapeutic deception occurred; and
 - (B) the Council and any other state licensing agency which licenses the mental health provider if the conduct involves a licensed individual.
- (2) Before making a report under this subsection, the reporter must inform the alleged victim of the reporter's duty to report and must determine if the alleged victim wants to remain anonymous.
- (3) A report under this subsection must:
 - (A) identify the reporter;
 - (B) identify the alleged victim, unless the alleged victim has requested anonymity;
 - (C) express suspicion sexual exploitation, sexual contact, or therapeutic deception occurred; and
 - (D) provide the name of the alleged perpetrator.

Adopted to be effective: November 19, 2020

681.43. Testing.

- (a) Prior to or following the administration of any test, a licensee must make known to clients the purposes and explicit use to be made of the test as a part of a professional counseling relationship.
- (b) A licensee must not appropriate, reproduce, or modify copyrighted tests or any parts thereof without the acknowledgment and permission of the copyright owner.
- (c) A licensee must not administer any test without the appropriate training and experience to administer and interpret the test.
- (d) A licensee must observe the necessary precautions to maintain the security of any test administered by the licensee or under the licensee's supervision.
- (e) In accordance with the §503.003(b)(1) of the Act, the use of standardized projective techniques is prohibited. This

prohibition includes, but is not limited to, the Rorschach Inkblot Test, the Holtzman Inkblot Test, the Thematic Apperception Test, the Children's Apperception Test, and the Senior Apperception Test.

Adopted to be effective: November 19, 2020

681.45. Confidentiality and Required Reporting.

- (a) Communication between a licensee and client and the client's records, however created or stored, are confidential under the provisions of the Texas Health and Safety Code Chapter 611 and other state or federal statutes or rules where such statutes or rules apply to a licensee's practice.
- (b) A licensee must not disclose any communication, record, or identity of a client except as provided in Texas Health and Safety Code Chapter 611 or other state or federal statutes or rules.
- (c) A licensee must comply with Texas Health and Safety Code, Chapters 181 and 611, concerning access to mental health records and confidential information.
- (d) A licensee must report information as required by Council §§882.36 (relating to Compliance with State and Federal Law) and 884.32 (relating to Reportable Legal Action and Discipline) and the following statutes:
 - (1) Texas Family Code Chapter 261, Subchapter B, concerning report of abuse or neglect of minors;
 - (2) Texas Human Resources Code Chapter 48, Subchapter B, concerning reports of abuse, neglect, or exploitation of elderly or disabled persons;
 - (3) Texas Health and Safety Code Chapter 161, Subchapter L, concerning abuse, neglect, and unprofessional or unethical conduct in health care facilities;
 - (4) Texas Civil Practice and Remedies Code, §81.006, concerning duty to report sexual exploitation by a mental health provider; and
 - (5) A licensee must comply with Texas Occupations Code §109.051 relating to the release of treatment information concerning the treatment of a sex offender.

Adopted to be effective: November 19, 2020

681.46. Licensees and the Council.

- (a) Licensees are bound by the provisions of the Act and this chapter as well as the Council's rules and statutes.
- (b) A licensee has the responsibility of reporting alleged violations of the Act or this chapter to the Council.

681.49. Advertising and Announcements.

- (a) Information used by a licensee in any advertisement or announcement must not contain information which is false, inaccurate, misleading, incomplete, out of context, deceptive or not readily verifiable. Advertising includes, but is not limited to, any announcement of services, letterhead, business cards, commercial products, and billing statements.
- (b) False, misleading, or deceptive advertising or advertising that is not readily subject to verification includes advertising that:
 - (1) makes any misrepresentation of fact or omits a fact necessary to make the statement misleading;
 - (2) makes any representation likely to create an unjustified expectation about the results of a mental health care service or procedure;
 - (3) compares a mental health care professional's services with another health care professional's services unless the comparison can be factually substantiated;
 - (4) contains a testimonial that includes false, deceptive, or misleading statements, or fails to include disclaimers or warnings as to the credentials of the person making the testimonial;
 - (5) causes confusion or misunderstanding as to the credentials, education, or licensure of a mental health care professional;
 - (6) advertises or represents that health care insurance deductibles or co-payments may be waived or are not applicable to health care services to be provided if the deductibles or co-payments are required;
 - (7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required; or
 - (8) advertises or represents in the use of a professional name a title or professional identification that is expressly or commonly reserved for or used by another profession or professional.
- (c) A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the statements and representations.
- (d) The highest academic degree in counseling or a counseling-related field earned from an accredited school may be used when advertising or announcing counseling treatment intervention to the public or in counseling-related professional representations. A degree in counseling or a

counseling-related field received at a foreign university may be used if the degree would be accepted as a transfer degree by an accredited school.

- (e) Notwithstanding the foregoing, a licensee may advertise or announce his or her other degrees from an accredited school if the subject of the degree is specified.
- (f) The Council imposes no restrictions on advertising by a licensee with regard to the use of any medium, the licensee's personal appearance, or the use of his or her personal voice, the size or duration of an advertisement by a licensee, or the use of a trade name.
- (g) All advertisements or announcements of counseling including telephone directory listings by a person licensed by the Council must clearly state the licensee's licensure status by the use of a title such as "Licensed Counselor", or "Licensed Professional Counselor", or "LPC", or a statement such as "licensed by the Texas Behavioral Health Executive Council" with reference to the "Texas State Board of Examiners of Professional Counselors."
- (h) An LPC Associate must indicate Associate status on all advertisements, billing, and announcements of counseling treatment by the use of the term "LPC Associate. "On all advertisements, billings and announcements of counseling treatment by an LPC Associate, the Associate's name must be followed by the name of the supervisor.
- (i) A licensee is required to hold the art therapy specialty designation in order to use the title "art therapist" or the initials "AT." A licensee who does not hold the designation may use art therapy as a counseling method but may not use the title or initials.
- (j) A licensed professional counselor who is a Council-approved supervisor may use the designation "LPC-S" when advertising their supervisory status.

Adopted to be effective: November 19, 2020

Amended: March 17, 2025

681.50. Research and Publications.

- (a) In research with a human participant, a licensee must take reasonable precautions to ensure that the participant does not suffer emotional or physical harm.
- (b) A licensee must ensure the full protection of a client's identity when using data obtained from a professional counseling relationship for the purposes of education or research.

- (c) When conducting or reporting research, a licensee must give recognition to previous work on the topic as well as observe all copyright laws.
- (d) A licensee must give due credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to the person/persons who have contributed significantly to the licensee's research or publication.

Adopted to be effective: November 19, 2020

681.51. Parenting Coordination.

- (a) In accordance with Texas Family Code, §153.601(3), "parenting coordinator" means an impartial third party:
 - (1) who, regardless of the title by which the person is designated by the court, performs any function described in Texas Family Code, §153.606, in a suit; and
 - (2) who:
 - (A) is appointed under Texas Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues through confidential procedures; and
 - (B) is not appointed under another statute or a rule of civil procedure.
- (b) A licensee who serves as a parenting coordinator has a duty to provide the following information in writing to the parties of the suit about the responsibility of the licensee and the role of the appointed court.
 - (1) A licensee, who serves as a parenting coordinator, is not acting under the authority of a license issued by the Council and is not engaged in the practice of professional counseling. The services provided by the licensee who serves as a parenting coordinator are not within the jurisdiction of the Council, but rather the jurisdiction of the appointing court.
 - (2) Records of a licensee serving as a parenting coordinator are confidential under Texas Civil Practice and Remedies Code, §154.073. Licensees serving as a confidential parenting coordinator must comply with the Texas Civil Practice and Remedies Code, Chapter 154.
 - (3) A licensee must not provide professional counseling services to any person while simultaneously providing parenting coordination services. This section does not

apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.

Adopted to be effective: November 19, 2020

681.52. Parenting Facilitation.

- (a) In accordance with Texas House Bill 1012, 81st Legislature, 2009, and Family Code, Chapter 153, this section establishes the practice standards for licensees who desire to serve as parenting facilitators.
- (b) In accordance with Texas Family Code, §153.601(3-a), a "parenting facilitator" means an impartial third party:
 - (1) who, regardless of the title by which the person is designated by the court, performs any function described by Texas Family Code, §153.6061, in a suit; and
 - (2) who:
 - (A) is appointed under Texas Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues through procedures that are not confidential; and
 - (B) is not appointed under another statute or a rule of civil procedure.
- (c) Notwithstanding any other provision of this chapter, licensees who desire to serve as parenting facilitators must comply with all applicable requirements of the Texas Family Code, Chapter 153, and this section. Licensees must also comply with all requirements of this chapter unless a provision is clearly inconsistent with the Texas Family Code, Chapter 153, or this section.
- (d) In accordance with Texas Family Code, §153.6102(e), a licensee serving as a parenting facilitator must not provide other professional counseling services to any person while simultaneously providing parent facilitation services. This section does not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.
- (e) In accordance with Texas Family Code, §153.6101(b)(1), a licensed professional counselor associate must not serve as a parenting facilitator.
- (f) A licensee serving as a parenting facilitator utilizes child-focused alternative dispute resolution processes, assists parents in implementing their parenting plan by facilitating

the resolution of disputes in a timely manner, educates parents about children's needs, and engages in other activities as referenced in Texas Family Code, Chapter 153.

- (g) A licensee serving as a parent facilitator must assist the parties involved in reducing harmful conflict and in promoting the best interests of the children.
- (h) A licensee serving as a parenting facilitator functions in four primary areas in providing services.
 - (1) Conflict management function--The primary role of the parenting facilitator is to assist the parties to work out disagreements regarding the children to minimize conflict. To assist the parents in reducing conflict, the parenting facilitator may monitor the electronic or written exchanges of parent communications and suggest productive forms of communication that limit conflict between the parents.
 - (2) Assessment function--A parenting facilitator must review applicable court orders, including protective orders, social studies, and other relevant records to analyze the impasses and issues as brought forth by the parties.
 - (3) Educational function--A parenting facilitator must educate the parties about child development, divorce, the impact of parental behavior on children, parenting skills, and communication and conflict resolution skills.
 - (4) Coordination/case management function--A parenting facilitator must work with the professionals and systems involved with the family (for example, mental health, health care, social services, education, or legal) as well as with extended family, stepparents, and significant others as necessary.
- (i) A licensee, serving as a parenting facilitator, must be alert to the reasonable suspicion of acts of domestic violence directed at a parent, a current partner, or children. The parenting facilitator must adhere to protection orders, if any, and take reasonable measures to ensure the safety of the participants, the children and the parenting facilitator, while understanding that even with appropriate precautions a guarantee that no harm will occur can be neither stated nor implied.
- (j) In order to protect the parties and children in domestic violence cases involving power, control and coercion, a parenting facilitator must tailor the techniques used so as to avoid offering the opportunity for further coercion.

- (k) A licensee serving as a parent facilitator must be alert to the reasonable suspicion of substance abuse by parents or children, as well as mental health impairment of a parent or child.
- (l) A licensee serving as a parenting facilitator must not provide legal advice.
- (m) A licensee serving as a parenting facilitator must serve by written agreement of the parties and/or formal order of the court.
- (n) A licensee serving as a parenting facilitator must not initiate providing services until the licensee has received and reviewed the fully executed and filed court order or the signed agreement of the parties.
- (o) A licensee serving as a parenting facilitator must maintain impartiality in the process of parenting facilitation. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.
- (p) A licensee serving as a parenting facilitator:
 - (1) must terminate or withdraw services if the licensee determines the licensee cannot act in an impartial or objective manner;
 - (2) must not give or accept a gift, favor, loan or other item of value from any party having an interest in the parenting facilitation process;
 - (3) must not coerce or improperly influence any party to make a decision;
 - (4) must not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting facilitator process; and
 - (5) must not accept any engagement, provide any service, or perform any act outside the role of parenting facilitation that would compromise the facilitator's integrity or impartiality in the parenting facilitation process.
- (q) A licensee serving as a parenting facilitator may make referrals to other professionals to work with the family, but must avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, or similar remuneration must be given or received by a licensee for parenting facilitation or other professional referrals.
- (r) A licensee serving as a parenting facilitator should attempt to bring about resolution of issues by agreement of the parties; however, the parenting facilitator is not acting in a formal mediation role. An effort towards resolving an issue, which may include therapeutic, mediation, education, and

negotiation skills, does not disqualify a licensee from making recommendations regarding any issue that remains unresolved after efforts of facilitation.

- (s) A licensee serving as a parenting facilitator must communicate with all parties, attorneys, children, and the court in a manner which preserves the integrity of the parenting facilitation process and considers the safety of the parents and children.
- (t) A licensee serving as a parenting facilitator:
 - (1) may meet individually or jointly with the parties, as deemed appropriate by the parenting facilitator, and may interview the children;
 - (2) may interview any individuals who provide services to the children to assess the children's needs and wishes; and
 - (3) may communicate with the parties through face-to-face meetings or electronic communication.
- (u) A licensee serving as a parenting facilitator must, prior to the beginning of the parenting facilitation process and in writing, inform the parties of:
 - (1) the limitations on confidentiality in the parenting facilitation process; and
 - (2) the basis of fees and costs and the method of payment including any fees associated with postponement, cancellation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.
- (v) Information obtained during the parenting facilitation process must not be shared outside the parenting facilitation process except for professional purposes, as provided by court order, by written agreement of the parties, or as directed by the Council.
- (w) In the initial session with each party, a licensee serving as a parenting facilitator must review the nature of the parenting facilitator's role with the parents to ensure that they understand the parenting facilitation process.
- (x) A licensee serving as a parenting facilitator:
 - (1) must comply with all mandatory reporting requirements, including but not limited to Texas Family Code Chapter 261, concerning abuse or neglect of minors;
 - (2) must report to law enforcement or other authorities if they have reason to believe that any participant appears to be at serious risk to harm themselves or a third party;

- (3) must maintain records necessary to support charges for services and expenses and must make a detailed accounting of those charges to the parties and their counsel if requested to do so;
 - (4) must maintain notes regarding all communications with the parties, the children, and other persons with whom they speak about the case; and
 - (5) must maintain records in a manner that is professional, legible, comprehensive, and inclusive of information and documents that relate to the parenting facilitation process and that support any recommendations made by the licensee.
- (y) Records of a licensee serving as a parenting facilitator, are not mental health records and are not subject to the disclosure requirements of Texas Health and Safety Code, Chapter 611. At a minimum, records must be maintained for the period of time described in §681.36 of this title (relating to Client Records), or as otherwise directed by the court.
 - (z) Records of a licensee serving as a parenting facilitator must be released on the request of either parent, as directed by the court, or as directed by the Council.
 - (aa) Charges for parenting facilitation services must be based upon the actual time expended by the parenting facilitator or as directed by the written agreement of the parties and/or formal order of the court.
 - (bb) All fees and costs must be appropriately divided between the parties as directed by the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.
 - (cc) Fees may be disproportionately divided fees if one parent is disproportionately creating a need for services and if such a division is outlined in the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.
 - (dd) Services and activities for which a licensee serving as a parenting facilitator may charge include time spent interviewing parents, children and collateral sources of information; preparation of agreements, correspondence, and reports; review of records and correspondence; telephone and electronic communication; travel; court preparation; and appearances at hearings, depositions and meetings.
 - (ee) The minimum training for a licensee serving as a parent facilitator that is required by Texas Family Code, §153.6101(b)(2) is:
 - (1) eight hours of family violence dynamics training provided by a family violence service provider;

- (2) 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court;
 - (3) 24 classroom hours of training in the fields of family dynamics, child development, family law; and
 - (4) 16 hours of training in the laws and Council rules governing parent coordination and facilitation, and the multiple styles and procedures used in different models of service.
- (ff) A licensee serving as a parent facilitator must decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the licensee's skill or expertise.
- (gg) Since parenting facilitation services are addressed under multiple titles in different jurisdictions nationally, acceptability of training to meet the requirements of subsection (ee) of this section, is based on functional skills taught during the training rather than the use of specific titles or names.

Adopted to be effective: November 19, 2020

Amended: September 21, 2023

681.53. Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions.

- (a) Licensees must comply with Texas Family Code, Chapter 107, Subchapters D, E, and F concerning Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions.
- (b) A licensee who has completed a doctoral degree and at least 10 court-ordered child custody evaluations under the supervision of an individual qualified by Texas Family Code, Chapter 107 to perform child custody evaluations is qualified to conduct child custody evaluations under Texas Family Code, Chapter 107. All other licensees must comply with qualifications stipulated in Texas Family Code, Chapter 107.
 - (1) In addition to the minimum qualifications set forth by this rule, an individual must complete at least eight hours of family violence dynamics training provided by a family violence service provider to be qualified to conduct child custody evaluations.
 - (2) In addition to the qualifications prescribed by this rule, to be qualified to conduct a child custody evaluation, an individual must complete, during the two-year period preceding the evaluation, at least three hours of initial or continuing training, as applicable,

related to the care of a child with an intellectual disability or developmental disability, including education, therapy, preparation for independent living, or methods for addressing physical or mental health challenges.

- (c) Any complaint relating to the outcome of a child custody evaluation or adoption evaluation conducted by a licensee must be reported to the court that ordered the evaluation, see Council §884.3.
- (d) Disclosure of confidential information in violation of Texas Family Code §§107.111, 107.1111, or 107.163, or failure to redact any social security numbers or child's birth date from records subject to disclosure under 107.112 before making the records available, is grounds for disciplinary action, up to and including revocation of license, by the Council.
- (e) A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a divorce, child custody determination, disability claim, or criminal prosecution, must comply with all applicable Council rules regardless of whether the licensee is acting as a factual witness or an expert.
- (f) A licensee may not provide therapy and any other type of service, including but not limited to a child custody evaluation or parenting facilitation, in the same case, whether such services are delivered sequentially or simultaneously.
- (g) Licensees may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation relating to the child under Texas Family Code, Subchapter D, Chapter 107.
- (h) Prior to beginning child custody evaluations or adoption evaluations, licensees must inform the parties in writing of:
 - (1) The limitations on confidentiality in the evaluation process; and
 - (2) The basis of fees and costs and the method of payment, including any fees associated with postponement, cancellation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.
- (i) A Licensed Professional Counselor Associate (LPC Associate) must not conduct child custody evaluations or adoption evaluations unless qualified by another professional license to provide such services.

Adopted to be effective: November 19, 2020
Amended: March 18, 2026

Subchapter C. Application and Licensing.

681.71. General Application Procedures.

- (a) An applicant must submit for review an official complete application with all supporting documentation, all applicable fees, and information required by law to the Council. Complete applications will consist of the required application materials described in Council rules §882.1 (relating to Application Process), §882.2 (relating to General Application File Requirements), and §681.72 of this title (relating to Required Application Materials).
- (b) To upgrade from LPC Associate status to LPC, an LPC Associate must submit the supervised experience documentation form, proof of passing the jurisprudence exam within six months prior to upgrade, and the applicable fee.

Adopted to be effective: November 19, 2020

681.72. Required Application Materials.

- (a) To apply for LPC Associate, the applicant must submit:
 - (1) the Council's application form;
 - (2) all applicable fees;
 - (3) official examination results from the National Board of Certified Counselors verifying a passing score on the National Counselor Exam (NCE) or National Clinical Mental Health Counselor Exam (NCMHCE);
 - (4) completion certificate for the Texas jurisprudence exam dated no more than six months before the date the application was received;
 - (5) an official graduate transcript(s);
 - (6) a practicum/graduate intern documentation form;
 - (7) a supervisory agreement form; and
 - (8) The holder of a current license in good standing issued by another jurisdiction equivalent to the Texas LPC Associate license must submit official verification of his or her license, including official verification of any supervised experience recognized by the issuing jurisdiction. If supervised experience cannot be verified by the issuing jurisdiction, the Council may consider a supervised experience documentation form with verification of the supervisor's credentials.
- (b) To apply for LPC as the holder of a current Texas LPC Associate license, the applicant must submit:
 - (1) the Council's application form;
 - (2) all applicable fees;

- (3) completion certificate for the jurisprudence exam dated no more than six months before the date the application for LPC was received;
 - (4) the Council's supervised experience documentation form; and
 - (5) other information or forms as requested by the Council.
- (c) To apply for LPC as the holder of a current license equivalent to a Texas LPC license issued by another jurisdiction, the applicant's license must be in good standing and must submit:
- (1) all of the items listed in subsection (a)(1)-(6) of this section;
 - (2) official verification of the license, including official verification of any supervised experience recognized by the issuing jurisdiction; and
 - (3) other information or forms as requested by the Council.
- (d) To apply for supervisor status, an LPC must:
- (1) have held the LPC license in good standing for at least 60 months;
 - (2) submit an application and all applicable fees; and
 - (3) submit a completion certificate for an acceptable supervisor training. An acceptable supervisor training is:
 - (A) a doctoral level course in the supervision of professional counseling or mental health services which was taken for credit at an accredited school and documented on an official transcript; or
 - (B) a 40-clock-hour supervision course as set forth in §681.147 of this title.
- (e) An applicant who holds a current LPC license in good standing issued by another jurisdiction must be substantially equivalent to Texas licensure requirements.

Adopted to be effective: November 19, 2020

Amended: November 21, 2021; March 27, 2024; July 20, 2025

681.73. Application for Art Therapy Specialty Designation.

- (a) A person applying for licensure with an art therapy specialty designation must:
 - (1) meet the requirements for an LPC license set out in this chapter;
 - (2) hold either:

- (A) a master's or doctoral degree in art therapy that includes 700 hours of supervised practicum from an accredited school; or
- (B) all of the following:
 - (i) a master's degree in a counseling-related field;
 - (ii) a minimum of 21 semester hours or the equivalent of sequential course work in the history, theory, and practice of art therapy; and
 - (iii) 700 hours of supervised practicum from an accredited school;
- (3) have the experience requirements set out in subsection (c) of this section; and
- (4) submit documentation of successful completion of the Certification Examination in Art Therapy of the Art Therapy Credentials Board.
- (b) The Council will accept an individual course from an art therapy program accredited through the American Art Therapy Association as satisfying the education requirements set out in §681.82 of this title (relating to Academic Requirements) if not less than 75% of the course content is substantially equivalent to the content of a course required in §681.83 of this title (relating to Academic Course Content).
- (c) As part of the supervised experience requirements for art therapy specialty designation under the Act, §503.303, an applicant must fulfill the requirements of §§681.91-681.93 of this title (relating to Academic Course Content) and must have the following:
 - (1) 1,500 client contact hours under supervision of a licensed professional counselor with an art therapy specialty designation, if the applicant holds a master's or doctoral degree in art therapy that includes 700 hours of practicum; or
 - (2) 2,000 client contact hours under supervision of a licensed professional counselor with an art therapy specialty designation, if the applicant holds a master's degree in counseling or a counseling related field and has a minimum of 21 semester hours or the equivalent of sequential course work in the history, theory, and practice of art therapy with 700 hours practicum.

Adopted to be effective: November 19, 2020

Amended: November 21, 2021

681.81. General Academic Requirements.

- (a) The Council will accept as meeting academic requirements graduate degrees from accredited schools that meet the requirements of §681.82 of this title and §681.83 of this title.
- (b) The applicant must provide the Council with documents and evidence to establish his or her formal education is equivalent to at least a master's degree granted by an accredited school. In order to meet this requirement the applicant must comply with Council §882.11 of this title.
- (c) Applicants must provide upon request a course description from an official school catalog or bulletin or a course syllabus to substantiate the relevance of the course to the academic requirements of §681.83 of this title.
- (d) The Council will not consider undergraduate level courses as meeting any academic requirements for licensure unless the applicant's official transcript clearly shows the course was awarded graduate credit by the school.
- (e) The Council will consider courses for which an applicant's official transcript indicates a passing grade or credit was earned.
- (f) In evaluating transcripts, the Council will consider a quarter hour of academic credit as two-thirds of a semester hour.

Adopted to be effective: November 19, 2020

Amended: March 17, 2025

681.82. Academic Requirements.

- (a) Persons applying for licensure must have a graduate degree in counseling or a counseling-related field of:
 - (1) at least 48 semester hours of coursework in a counseling or counseling-related field for applicants who began the qualifying program before August 1, 2017; and
 - (2) at least 60 semester hours of coursework in a counseling or counseling-related field for applicants who began the qualifying program on or after August 1, 2017.
- (b) An applicant who holds a graduate degree in a counseling-related field must have an official transcript documenting satisfaction of the requirements described in §681.83 of this title (relating to Academic Course Content).
- (c) An applicant who has held a full active LPC in good standing issued by a United States jurisdiction for at least two (2) years immediately preceding the date the application was received will be deemed to have met all academic and experience requirements, including the practicum, if the applicant can demonstrate 3,000 hours of supervised

experience and has completed at least 48 semester hours of coursework in a graduate degree program in a counseling or a counseling-relating field, with 300 clock hours of supervised practicum.

- (d) The 48/60 semester hours must be designed to train a person to provide direct services to assist clients in a professional counseling relationship using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life. The 48/60 semester hours may be course work that was part of the graduate degree in a counseling-related field, may be in addition to course work taken for the qualifying program, or a combination of both.

Adopted to be effective: November 19, 2020

Amended: November 21, 2021

681.83. Academic Course Content.

- (a) An applicant who holds a graduate degree in counseling from an accredited school is presumed to have satisfied the academic course content requirements described in this section.
- (b) An applicant who holds a graduate degree in a counseling-related field must complete at least one course in each of the following areas:
 - (1) normal human growth and development - the process and stages of human intellectual, physical, social, and emotional development from prenatal origins through adulthood;
 - (2) abnormal human behavior - the principles of understanding dysfunction in human behavior or social disorganization;
 - (3) appraisal or assessment techniques - the principles, concepts, and procedures of systematic appraisal or assessment of an individual's attitudes, aptitudes, achievements, interests, and personal characteristics, which may include the use of both non-testing approaches and test instruments;
 - (4) counseling theories - the major theories of professional counseling;
 - (5) counseling methods or techniques - the methods or techniques used to provide counseling treatment intervention including:
 - (A) counseling individuals; and

- (B) the theory and types of groups, including dynamics and the methods of practice with groups;
- (6) research - the methods of research which may include the study of statistics or a thesis project;
- (7) life style and career development - the theories of vocational choice, career choice and life style, sources of occupational and educational information, and career decision-making processes;
- (8) social, cultural, and family issues - the studies of change, ethnic groups, gender studies, family systems, urban and rural societies, population patterns, cultural patterns, and differing life styles;
- (9) professional orientation - the objectives of professional organizations, codes of ethics, legal aspects of practice, standards of preparation, and the role identity of persons providing direct counseling treatment intervention; and
- (10) practicum (internship) - supervised practicum experience primarily counseling in nature which includes:
 - (A) At least 300 clock-hours, of which at least 100 hours must be direct client counseling.
 - (B) Academic credit or other acknowledgment of the practicum/internship must appear on the applicant's official graduate transcript.
- (c) The remaining courses needed to meet the 48/60 graduate semester hour requirement must be counseling-related course work in areas directly supporting the development of an applicant's professional counseling skills and must be courses related primarily to professional counseling.
- (d) As of August 1, 2017, the following courses must be taken in addition to those outlined in subsection (b) of this section, to meet the 60 semester hour requirement:
 - (1) addictions counseling; to include, but not limited to, gambling, sexual, eating, alcohol, or drug;
 - (2) an additional course in counselor ethics; to include records management, an overview of business/family law and professional practice, and the study of current Council rules;
 - (3) couples, marriage, or family counseling; and
 - (4) a course in psychopathology to include such content as criteria of psychiatric diagnosis, use of the current Diagnostic and Statistical Manual of Mental Disorders and the theories of psychopathology. The course

should also include the basic knowledge of types of psychopharmacological medications.

- (e) Passing the National Counselor Exam or National Clinical Mental Health Counselor Exam does not guarantee that Texas state licensure requirements have been satisfied.

Adopted to be effective: November 19, 2020

681.91. LPC Associate License.

- (a) The Council may issue an LPC Associate license to an applicant who has:
 - (1) filed all application forms and paid all applicable fees;
 - (2) met all of the academic requirements for licensure;
 - (3) completed the required examinations with the requisite score as described in 681.72(a)(3) and (a)(4) of this title (relating to Required Application Materials);
 - (4) entered into a supervisory agreement with a Licensed Professional Counselor Supervisor (LPC-S); and
 - (5) not completed the supervised experience described in §681.92 of this title (relating to Experience Requirements (Internship)).
- (b) An LPC Associate must comply with all provisions of the Act and Council rules.
- (c) To practice counseling in Texas, a person must obtain an LPC Associate license before the person begins an internship or continues an internship. Hours obtained by an unlicensed person in any setting will not count toward the supervised experience requirements.
- (d) An LPC Associate may practice counseling only as part of his or her internship and only under the supervision of a Licensed Professional Counselor Supervisor (LPC-S). The LPC Associate shall not engage in independent practice.
- (e) An LPC Associate may have no more than two (2) Council-approved LPC supervisors at any given time.
- (f) An LPC Associate must maintain their LPC Associate license during his or her supervised experience.
- (g) An LPC Associate license will expire 60 months from the date of issuance.
- (h) An LPC Associate who does not complete the required supervised experience hours during the 60-month time period must reapply for licensure.
- (i) An LPC Associate must continue to be supervised after completion of the 3,000 hours of supervised experience and until the LPC Associate receives his or her LPC license. Supervision is complete upon the LPC Associate receiving the LPC license.

- (j) The possession, access, retention, control, maintenance, and destruction of client records is the responsibility of the person or entity that employs or contracts with the LPC Associate, or in those cases where the LPC Associate is self-employed, the responsibility of the LPC-Associate.
- (k) An LPC Associate must not employ a supervisor but may compensate the supervisor for time spent in supervision if the supervision is not a part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.
- (l) All billing documents for services provided by an LPC Associate must reflect the LPC Associate holds an LPC Associate license and is under supervision.
- (m) The LPC Associate must not represent himself or herself as an independent practitioner. The LPC Associate's name must be followed by a statement such as "supervised by (name of supervisor)" or a statement of similar effect, together with the name of the supervisor. This disclosure must appear on all marketing materials, billing documents, and practice related forms and documents where the LPC Associate's name appears, including websites and intake documents.

Adopted to be effective: November 19, 2020

Amended: February 27, 2022

681.92. Experience Requirements.

- (a) All applicants for LPC licensure must complete supervised experience acceptable to the Council of 3,000 clock-hours under a Council-approved supervisor.
 - (1) All internships physically occurring in Texas must be completed under the supervision of a Council-approved supervisor.
 - (2) For all internships physically completed in a jurisdiction other than Texas, the supervisor must be a person licensed or certified by that jurisdiction in a profession that provides counseling and who has the academic training and experience to supervise the counseling services offered by the Associate. The applicant must provide documentation acceptable to the Council regarding the supervisor's qualifications.
- (b) The supervised experience must include at least 1,500 clock-hours of direct client counseling contact. Only actual time spent counseling may be counted.
- (c) An LPC Associate may not complete the required 3,000 clock-hours of supervised experience in less than 18 months.

- (d) The experience must consist primarily of the provision of direct counseling services within a professional relationship to clients by using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life.
- (e) The LPC Associate must receive direct supervision consisting of a minimum of four (4) hours per month of supervision in individual (up to two Associates) or group (three or more) settings while the Associate is engaged in counseling unless an extended leave of one month or more is approved in writing by the Council approved supervisor. No more than 50% of the total hours of supervision may be received in group supervision.

Adopted to be effective: February 9, 2021

Amended: March 17, 2025

681.93. Supervisor Requirements.

- (a) A supervisor must keep a written record of each supervisory session in the file for the LPC Associate.
 - (1) The supervisory written record must contain:
 - (A) a signed and dated copy of the Council's supervisory agreement form for each of the LPC Associate's supervisors;
 - (B) a copy of the LPC Associate's online license verification noting the dates of issuance and expiration;
 - (C) fees and record of payment;
 - (D) the date of each supervisory session;
 - (E) a record of an LPC Associate's leave of one month or more, documenting the supervisor's approval and signed by both the LPC Associate and the supervisor;
 - (F) a record of any concerns the supervisor discussed with the LPC Associate, including a written remediation plan as prescribed in subsection (e) of this section; and
 - (G) a record of acknowledgement that the supervisee is self-employed, if applicable.
 - (2) The supervisor must provide a copy of all records to the LPC Associate upon request.
- (b) Both the LPC-Associate and the supervising LPC-S are fully responsible for the professional counseling activities of the LPC-Associate. The LPC- S may be subject to disciplinary action for violations that relate only to the professional

practice of counseling committed by the LPC-Associate which the LPC-S knew about or due to the oversight nature of the supervisory relationship should have known about.

- (1) Supervisors must review all provisions of the Act and Council rules in this chapter during supervision.
 - (2) The supervisor must ensure the LPC Associate is aware of and adheres to all provisions of the Act and Council rules.
- (c) The supervisor must avoid any relationship that impairs the supervisor's objective, professional judgment.
- (1) The supervisor may not be related to the LPC Associate within the second degree of affinity or within the third degree of consanguinity.
 - (2) The supervisor may not be an employee of his or her LPC Associate.
- (d) The supervisor must submit to the Council accurate documentation of the LPC Associate's supervised experience within 30 days of the end of supervision or the completion of the LPC Associate's required hours, whichever comes first.
- (e) If a supervisor determines the LPC Associate may not have the counseling skills or competence to practice professional counseling under an LPC license, the supervisor will develop and implement a written plan for remediation of the LPC Associate, which must be reviewed and signed by the LPC Associate and maintained as part of the LPC Associate's file.
- (f) The supervisor must ensure the supervised counseling experience of the LPC Associate were earned:
- (1) after the LPC Associate license was issued; and
 - (2) in not less than 18 months of supervised counseling experience.
- (g) A supervisor whose license has expired is no longer an approved supervisor and:
- (1) must immediately inform all LPC Associates under his or her supervision and assist the LPC Associates in finding alternate supervisors; and
 - (2) must refund all supervisory fees for supervision after the expiration of the supervisor status.
 - (3) Hours accumulated under the person's supervision after the date of license expiration may not count as acceptable hours.
- (h) Upon execution of a Council order for probated suspension, suspension, or revocation of the LPC license with supervisor status, the supervisor status is revoked. A licensee whose supervisor status is revoked:

- (1) must immediately inform all LPC Associates under his or her supervision and assist the LPC Associates in finding alternate supervisors; and
 - (2) must refund all supervisory fees for supervision after the date the supervisor status is revoked; and
 - (3) hours accumulated under the person's supervision after the date of license expiration may not count as acceptable hours.
- (i) Supervision of an LPC Associate without having Council approved supervisor status is grounds for disciplinary action.

Adopted to be effective: November 19, 2020

Amended: February 27, 2022

681.101. Examinations. Each applicant for licensure is required to take and pass the National Counselor Exam or the National Clinical Mental Health Counselor Exam and complete the jurisprudence exam prior to application.

Adopted to be effective: November 19, 2020

Amended: March 17, 2025

681.114. Licensing of Military Service Members, Military Veterans, and Military Spouses.

- (a) An applicant applying for licensure under this section must comply with Council rule, §882.60 of this title.
- (b) If an applicant has been fully licensed to practice professional counseling in another United States jurisdiction for less than two years immediately preceding the date the application is received, and has no disciplinary history, staff may grant 125 hours of credit for every month of independent professional counseling practice toward any deficit in experience requirements.
- (c) For an application submitted by a verified military service member or military veteran, the applicant must receive credit towards any licensing requirements, except an examination requirement, for verified military service, training, or education that the Council determines is relevant to the licensing requirements.

Adopted to be effective: November 19, 2020

Amended: November 21, 2021; March 18, 2026

681.140. Requirements for Continuing Education.

- (a) Minimum Continuing Education Hours Required.
 - (1) An LPC must complete 24 hours of continuing education during each renewal period that they hold a license. The 24 hours of continuing education must

- include 6 hours in ethics and 3 hours designed to ensure competency when providing services to a distinct population, defined as a group of people who share a common attribute, trait, or defining characteristic of the licensee's choice.
- (2) A licensee may carry forward to the next renewal period, a maximum of 10 hours accrued during the current renewal period if those hours are not needed for renewal.
- (b) Special Continuing Education Requirements.
- (1) A licensee with supervisory status must complete 6 hours of continuing education in supervision.
 - (2) A licensee must successfully complete the Texas jurisprudence examination each renewal period. Licensees who pass the Texas jurisprudence examination may claim 1 hour of continuing education in ethics.
 - (3) The special continuing education requirements set out in this subsection may be counted toward the minimum continuing education hours required under subsection (a) of this section.
- (c) Acceptable ethics hours include, but are not limited to continuing education on:
- (1) state or federal laws, including agency rules, relevant to the practice of professional counseling;
 - (2) practice guidelines established by local, regional, state, national, or international professional organizations;
 - (3) training or education designed to demonstrate or affirm the ideals and responsibilities of the profession; and
 - (4) training or education intended to assist licensees in determining appropriate decision-making and behavior, improve consistency in or enhance the professional delivery of services, and provide a minimum acceptable level of practice.
- (d) Acceptable Continuing Education Activities.
- (1) All continuing education hours must have been received during the renewal period unless allowed under subsection (a)(2) of this section, and be directly related to the practice of professional counseling;
 - (2) The Council shall make the determination as to whether the activity claimed by the licensee is directly related to the practice of professional counseling;
 - (3) Except for hours claimed under subsection (g) of this section, all continuing education hours obtained must

- be designated by the provider in a letter, email, certificate, or transcript that displays the licensee's name, topic covered, date(s) of training, and hours of credit earned; and
- (4) Multiple instances or occurrences of a continuing education activity may not be claimed for the same renewal period.
- (e) Licensees must obtain at least fifty percent of their continuing education hours from one or more of the following providers:
- (1) an international, national, regional, state, or local association of medical, mental, or behavioral health professionals;
 - (2) public school districts, charter schools, or education service centers;
 - (3) city, county, state, or federal governmental entities;
 - (4) an institution of higher education accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education;
 - (5) religious or charitable organizations devoted to improving the mental or behavioral health of individuals;
 - (6) a licensee with supervisor status;
 - (7) a hospital or hospital system, including any clinic, division, or department within a hospital or hospital system; or
 - (8) any provider approved or endorsed by a provider listed herein.
- (f) Licensees shall receive credit for continuing education activities according to the number of hours designated by the provider, or if no such designation, on a one-for-one basis with one credit hour for each hour spent in the continuing education activity.
- (g) Notwithstanding subsection (e) of this section, licensees may claim continuing education credit for each of the following activities:
- (1) Preparing and giving a presentation at a continuing education activity. The maximum number of hours that may be claimed for this activity is 5 hours.
 - (2) Authoring a book or peer reviewed article. The maximum number of hours that may be claimed for this activity is 5 hours.

- (3) Teaching or attending a graduate level course. The maximum number of hours that may be claimed for this activity is 5 hours.
- (4) Self-study. The maximum number of hours that may be claimed for this activity is 1 hour. Self-study is credit that is obtained from any type of activity that is performed by an individual licensee acting alone. Such activities include, but are not limited to, reading materials directly related to the practice of professional counseling. Time spent individually viewing or listening to audio, video, digital, or print media as part of an organized continuing education activity, program, or offering from a third-party is not subject to this self-study limitation and may count as acceptable education under other parts of this rule.
- (5) Successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code. Licensees who complete this training may claim 1 hour of continuing education credit.
- (h) The Council does not pre-evaluate or pre-approve continuing education providers or hours.
- (i) Licensees shall maintain proof of continuing education compliance for a minimum of 3 years after the applicable renewal period.

Adopted to be effective: March 7, 2023

Amended: July 20, 2025

681.147. 40-Clock-Hour Supervisor Training Course. The 40-clock-hour supervision training must be education related to the practice of professional counseling and:

- (1) the course must be taught by a full LPC with supervisor status;
- (2) all related coursework and assignments must be completed over a time period not to exceed 90 days; and
- (3) the 40-clock-hour supervision training must include at least:
 - (A) three (3) clock-hours for defining and conceptualizing supervision and models of supervision;
 - (B) three (3) clock-hours for supervisory relationship and counselor development;
 - (C) twelve (12) clock-hours for supervision methods and techniques, covering roles (teacher, counselor, and consultant), focus (process, conceptualization, and personalization), group supervision, multi-cultural supervision (racial, ethnic, and gender issues), and evaluation methods;

- (D) twelve (12) clock-hours covering roles for supervision and standards of practice; Subchapter B of this chapter; Subchapter C of this chapter; §681.91 of this title; §681.92 of this title; §681.93 of this title; other codes of ethics; and legal and professional issues; and
- (E) three (3) clock-hours for executive and administrative tasks, covering supervision plan, supervision contract, time for supervision, record keeping, and reporting.

Adopted to be effective: November 19, 2020

Amended: March 7, 2023

681.164. Licensing of Persons with Criminal Convictions.

- (a) The following felonies and misdemeanors directly relate to the duties and responsibilities of a licensee:
 - (1) offenses listed in Article 42A.054 of the Code of Criminal Procedure;
 - (2) a sexually violent offense, as defined by Article 62.001 of the Code of Criminal Procedure;
 - (3) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;
 - (4) any criminal violation of Chapter 503 (Licensed Professional Counselor Act) of the Occupations Code;
 - (5) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;
 - (6) any criminal violation involving a federal health care program, including 42 USC Section 1320a-7b (Criminal penalties for acts involving Federal health care programs);
 - (7) any offense involving the failure to report abuse or neglect;
 - (8) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of professional counseling;
 - (9) any criminal violation of Section 22.041 (abandoning or endangering a child) of the Penal Code;
 - (10) any criminal violation of Section 21.15 (invasive visual recording) of the Penal Code;
 - (11) any criminal violation of Section 43.26 (possession of child pornography) of the Penal Code;
 - (12) any criminal violation of Section 22.04 (injury to a child, elderly individual, or disabled individual) of the Penal Code;
 - (13) three or more drug or alcohol related convictions within the last 10 years, evidencing possible addiction

- that will have an effect on the licensee's ability to provide competent services; and
- (14) any attempt, solicitation, or conspiracy to commit an offense listed herein.

Adopted to be effective: February 9, 2021

Subchapter D. Schedule of Sanctions.

681.201. Purpose of this Subchapter. This schedule of sanctions as adopted by the Act §503.2015(2).

Adopted to be effective: November 19, 2020

681.203. Severity Levels for the Schedule of Sanctions.

- (a) The following are the severity levels for the schedule of sanctions:
- (1) Level One--revocation of license. These violations evidence intentional or gross misconduct on the part of the licensee and/or cause or pose a high degree of harm to the public and/or require severe punishment as a deterrent to the licensee, or other licensees. The fact that a license is ordered revoked does not

necessarily mean the licensee can never regain licensure.

- (2) Level Two--extended suspension of license. These violations involve less misconduct, harm, or need for deterrence than Level One violations, but may require termination of licensure for a period of not less than one year.
 - (3) Level Three--moderate suspension of license. These violations are less serious than Level Two violations, but may require termination of licensure for a period of time less than a year.
 - (4) Level Four--probated suspension of license. These violations do not involve enough harm, misconduct, or need for deterrence to warrant termination of licensure, yet are severe enough to warrant monitoring of the licensee to ensure future compliance. Probationary terms may be ordered as appropriate.
 - (5) Level Five--reprimand. These violations involve inadvertent or relatively minor misconduct and/or rule violations.
- (b) Licensees who are in violation of a Council rule in this chapter may be subject to an administrative penalty of up to \$5,000 per violation, per day of occurrence, and/or be required to refund all or a portion of the fees received from a consumer.
 - (c) Supervisors who are in violation of a Council rule in this chapter may be subject to an administrative penalty of up to \$5,000 per violation, per day of occurrence, and/or be required to refund all or a portion of the fees received by the supervisor to his or her LPC Associate(s).

Adopted to be effective: November 19, 2020

681.204. Other Actions. Complaints may be resolved by issuance of a warning letter. Warning letters inform licensees of their duties under the Act, the Council Act, or council rules, and whether the council has a concern about the circumstances surrounding the complaint.

Adopted to be effective: November 19, 2020

Amended: March 17, 2025

681.205. Schedule of Sanctions. The following standard sanctions shall apply to violations of the Act and these rules.

Rule	Subsection	Action
§681.35(a)		L4

	(1)-(8)	L4
§681.35(b)		L4
§681.35(c)		L5
§681.35(d)		L4
§681.36(a)		L5
	(1)	L4
	(2)-(7)	L5
§681.36(b)		L5
§681.37(a)	(1)-(3)	L5
	(4)-(5)	L4
§681.37(b)		L3
§681.37(c)		L3
§681.38(a)		L4
§681.38(b)		L4
§681.38(c)		L4
§681.38(d)		L4
	(2)	L4
	(3)	L1
	(5)-(6)	L5
	(7)	L4
§681.38(e)		L5
§681.38(f)		L4
§681.38(g)		L5
§681.41(a)		L5
	(1)-(3)	L5
§681.41(b)		L5
§681.41(c)		L5
§681.41(e)		L5

§681.41(f)		L4
§681.41(g)		L4
§681.41(h)		L1
§681.41(j)		L1
§681.42(b)	(1)-(3)	L1
§681.42(c)		L1
§681.42(f)	(1)-(2)	L5
§681.43(a)		L5
§681.43(b)		L5
§681.43(c)		L4
§681.43(d)		L5
§681.43(e)		L5
§681.45(b)		L4
§681.45(c)		L4
§681.45(d)	(1)-(5)	L4
§681.46(b)		L5
§681.49(a)		L5
§681.49(d)		L5
§681.49(e)		L5
§681.49(g)		L5
§681.49(h)		L5
§681.49(i)		L5
§681.50(a)		L5
§681.50(b)		L5
§681.50(c)		L5
§681.50(d)		L5
§681.51(b)	(3)	L4
§681.52(d)		L4
§681.52(e)		L5
§681.52(i)		L5
§681.52(j)		L5
§681.52(k)		L5
§681.52(l)		L5
§681.52(m)		L5
§681.52(n)		L5
§681.52(o)		L5
§681.52(p)	(1)-(5)	L5
§681.52(q)		L5

*Adopted to be
November 19, 2020
Amended:
2021; June 26,
21, 2023; March*

§681.52(s)		L5
§681.52(u)		L5
	(1)-(2)	L5
§681.52(v)		L5
§681.52(w)		L5
§681.52(x)		L5
	(1)-(5)	L5
§681.52(y)		L5
§681.52(z)		L5
§681.52(aa)		L5
§681.52(bb)		L5
§681.52(dd)		L5
§681.52(ff)		L5
§681.53(a)		L5
§681.53(c)		L5
§681.53(d)		L5
§681.53(e)		L5
§681.53(f)		L4
§681.53(g)		L3
§681.53(h)		L5
	(1)-(2)	L4
§681.53(i)		L4
§681.91(d)		L1
§681.93(a)	(1)(A)-(F)	L5
	(2)	L5
§681.93(c)		L5
	(1)-(2)	L5
§681.93(d)		L5
§681.93(e)		L5
§681.93(f)	(1)-(2)	L5
§681.93(h)	(2)	L4

*effective:
November 21,
2022; September
17, 2025*

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL STATUTES

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 507.001. DEFINITIONS. In this chapter:

- (1) "Executive council" means the Texas Behavioral Health Executive Council.
- (2) "License" means a license, certification, registration, or other authorization that is issued by the executive council.
- (3) "Marriage and family therapy board" means the Texas State Board of Examiners of Marriage and Family Therapists.
- (4) "Professional counseling board" means the Texas State Board of Examiners of Professional Counselors.
- (5) "Psychology board" means the Texas State Board of Examiners of Psychologists.
- (6) "Social work board" means the Texas State Board of Social Worker Examiners.

Sec. 507.002. APPLICATION OF SUNSET ACT. The Texas Behavioral Health Executive Council is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the executive council is abolished and this chapter and Chapters 501, 502, 503, and 505 expire September 1, 2033.

SUBCHAPTER B. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

Sec. 507.051. EXECUTIVE COUNCIL MEMBERSHIP.

- (a) The Texas Behavioral Health Executive Council consists of nine members as follows:
 - (1) one marriage and family therapist member and one public member of the marriage and family therapy board, each appointed by that board;
 - (2) one licensed professional counselor member and one public member of the professional counseling board, each appointed by that board;
 - (3) one psychologist member and one public member of the psychology board, each appointed by that board;
 - (4) one social worker member and one public member of the social work board, each appointed by that board; and
 - (5) one public member appointed by the governor.

- (b) Appointments to the executive council shall be made without regard to the race, color, disability, sex, age, religion, or national origin of the appointee.

Sec. 507.052. ELIGIBILITY OF PUBLIC MEMBER APPOINTED BY

GOVERNOR. A person is not eligible for appointment by the governor as a public member of the executive council if the person or the person's spouse:

- (1) is registered, certified, or licensed by an occupational regulatory agency in the field of health care;
- (2) is employed by or participates in the management of a business entity or other organization regulated by or receiving money from the executive council, the marriage and family therapy board, the professional counseling board, the psychology board, or the social work board;
- (3) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving money from the executive council, the marriage and family therapy board, the professional counseling board, the psychology board, or the social work board; or
- (4) uses or receives a substantial amount of tangible goods, services, or money from the executive council, the marriage and family therapy board, the professional counseling board, the psychology board, or the social work board, other than compensation or reimbursement authorized by law for executive council, marriage and family therapy board, professional counseling board, psychology board, or social work board membership, attendance, or expenses.

Sec. 507.053. MEMBERSHIP AND EMPLOYEE RESTRICTIONS.

- (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.
- (b) A person may not be a member of the executive council and may not be an executive council employee employed in a "bona fide executive, administrative, or professional capacity," as that phrase is used for purposes of establishing an exemption to the overtime provisions of the federal Fair Labor Standards Act of 1938 (29 U.S.C. Section 201 et seq.) if:
 - (1) the person is an officer, employee, or paid consultant of a Texas trade association in the field of health care; or

- (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of health care.
- (c) A person may not be a member of the executive council or act as the general counsel to the executive council if the person is required to register as a lobbyist under Chapter 305, Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the executive council, the marriage and family therapy board, the professional counseling board, the psychology board, or the social work board.

Sec. 507.054. TERMS; VACANCY.

- (a) The member appointed by the governor serves a six-year term. The remaining members serve two-year terms with the terms of four of those members expiring February 1 of each year.
- (b) A member appointed to fill a vacancy holds office for the unexpired portion of the term.

Sec. 507.055. PRESIDING OFFICER. The member appointed by the governor is the presiding officer of the executive council.

Sec. 507.056. GROUNDS FOR REMOVAL.

- (a) It is a ground for removal from the executive council that a member:
 - (1) does not have at the time of taking office the qualifications required by Section 507.051;
 - (2) does not maintain during service on the executive council the qualifications required by Section 507.051;
 - (3) is ineligible for membership under Section 507.052 or 507.053;
 - (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term; or
 - (5) is absent from more than half of the regularly scheduled executive council meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the executive council.
- (b) The validity of an action of the executive council is not affected by the fact that it is taken when a ground for removal of an executive council member exists.
- (c) If the executive director has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the executive council of the potential ground. The presiding officer shall then notify the appointing authority and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the

executive director shall notify the next highest ranking officer of the executive council, who shall then notify the appointing authority and the attorney general that a potential ground for removal exists.

Sec. 507.057. REIMBURSEMENT. A member of the executive council may receive reimbursement for travel expenses as provided by the General Appropriations Act.

Sec. 507.058. MEETINGS.

- (a) The executive council shall hold at least two regular meetings each year.
- (b) The executive council may hold additional meetings on the request of the presiding officer or on the written request of three members of the executive council.

Sec. 507.059. TRAINING.

- (a) A person who is appointed to and qualifies for office as a member of the executive council may not vote, deliberate, or be counted as a member in attendance at a meeting of the executive council until the person completes a training program that complies with this section.
- (b) The training program must provide the person with information regarding:
 - (1) the law governing executive council operations;
 - (2) the programs, functions, rules, and budget of the executive council;
 - (3) the scope of and limitations on the rulemaking authority of the executive council;
 - (4) the types of executive council rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business the executive council regulates, including any rule, interpretation, or enforcement action that:
 - (A) regulates the scope of practice of persons in a profession or business the executive council regulates;
 - (B) restricts advertising by persons in a profession or business the executive council regulates;
 - (C) affects the price of goods or services provided by persons in a profession or business the executive council regulates; or
 - (D) restricts participation in a profession or business the executive council regulates;
 - (5) the results of the most recent formal audit of the executive council;

- (6) the requirements of:
 - (A) laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest; and
 - (B) other laws applicable to members of the executive council in performing their duties; and
- (7) any applicable ethics policies adopted by the executive council or the Texas Ethics Commission.
- (c) A person appointed to the executive council is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.
- (d) The executive director of the executive council shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each executive council member. Each member of the executive council shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER PERSONNEL

Sec. 507.101. EXECUTIVE DIRECTOR; PERSONNEL. The executive council shall employ an executive director and other personnel as necessary to administer this chapter and carry out the functions of the executive council.

Sec. 507.102. DIVISION OF RESPONSIBILITIES. The executive council shall develop and implement policies that clearly separate the policymaking responsibilities of the executive council and the management responsibilities of the executive director and the staff of the executive council.

Sec. 507.103. CAREER LADDER PROGRAM; PERFORMANCE EVALUATIONS.

- (a) The executive director or the executive director's designee shall develop an intra-agency career ladder program. The program must require intra-agency posting of all nonentry level positions concurrently with any public posting.
- (b) The executive director or the executive director's designee shall develop a system of annual performance evaluations based on measurable job tasks. All merit pay for executive council employees must be based on the system established under this subsection.

Sec. 507.104. EQUAL OPPORTUNITY POLICY; REPORT.

- (a) The executive director or the executive director's designee shall prepare and maintain a written policy statement to ensure implementation of an equal opportunity program under which all personnel transactions are made without regard to race, color, disability, sex, age, religion, or national origin. The policy statement must include:
 - (1) personnel policies, including policies relating to recruitment, evaluation, selection, appointment, training, and promotion of personnel, that are in compliance with the requirements of Chapter 21, Labor Code;
 - (2) a comprehensive analysis of the executive council workforce that meets federal and state guidelines;
 - (3) procedures by which a determination can be made of significant underuse in the executive council workforce of all persons for whom federal or state guidelines encourage a more equitable balance; and
 - (4) reasonable methods to appropriately address those areas of significant underuse.
- (b) A policy statement prepared under Subsection (a) must:
 - (1) cover an annual period;
 - (2) be updated annually;
 - (3) be reviewed by the Texas Workforce Commission for compliance with Subsection (a)(1); and
 - (4) be filed with the governor.
- (c) The governor shall deliver a biennial report to the legislature based on information received under Subsection (b). The report may be made separately or as part of other biennial reports made to the legislature.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 507.151. GENERAL POWERS AND DUTIES.

- (a) The executive council shall administer and enforce this chapter and Chapters 501, 502, 503, and 505.
- (b) In carrying out its duties under this section, the executive council may request input or assistance from the board for the applicable profession.

Sec. 507.152. GENERAL RULEMAKING AUTHORITY. The executive council shall adopt rules as necessary to perform its duties and implement this chapter.

Sec. 507.153. LIMITATION REGARDING CERTAIN RULES.

- (a) Unless the rule has been proposed by the applicable board for the profession, the executive council may not adopt under this chapter or Chapter 501, 502, 503, or 505:
 - (1) a rule regarding:
 - (A) the qualifications necessary to obtain a license, including limiting an applicant's eligibility for a license based on the applicant's criminal history;
 - (B) the scope of practice of and standards of care and ethical practice for the profession; or
 - (C) continuing education requirements for license holders; or
 - (2) a schedule of sanctions for violations of the laws and rules applicable to the profession.
- (b) For each rule proposed under Subsection (a), the executive council shall either adopt the rule as proposed or return the rule to the applicable board for revision. On the return of a rule under this subsection, the executive council shall include an explanation of the executive council's reasons for not adopting the rule as proposed.
- (c) The executive council retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process.
- (d) The executive council shall adopt rules prescribing the procedure by which rules described by Subsection (a) may be proposed to the executive council.

Sec. 507.154. FEES. The executive council shall set fees in amounts reasonable and necessary to cover the costs of administering this chapter and Chapters 501, 502, 503, and 505, including fees for:

- (1) licenses issued by the executive council;
- (2) license renewals and late renewals;
- (3) examinations; and
- (4) any other program or activity administered by the executive council for which a fee is authorized.

Sec. 507.155. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING.

- (a) The executive council may not adopt rules restricting advertising or competitive bidding by a person regulated by the executive council except to prohibit false, misleading, or deceptive practices.

- (b) The executive council may not include in rules to prohibit false, misleading, or deceptive practices by a person regulated by the executive council a rule that:
 - (1) restricts the person's use of any advertising medium;
 - (2) restricts the person's personal appearance or use of the person's voice in an advertisement;
 - (3) relates to the size or duration of an advertisement by the person; or
 - (4) restricts the use of a trade name in advertising by the person.

Sec. 507.156. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.

The executive council shall adopt rules and guidelines as necessary to comply with Chapter 53.

Sec. 507.157. CONTINUING EDUCATION. The executive council shall recognize, prepare, or administer continuing education programs for license holders. A license holder must participate in the programs to the extent required by the executive council to keep the person's license.

Sec. 507.158. USE OF TECHNOLOGY. The executive council shall implement a policy requiring the executive council to use appropriate technological solutions to improve the executive council's ability to perform its functions. The policy must ensure that the public is able to interact with the executive council on the Internet.

Sec. 507.159. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY.

- (a) The executive council shall develop a policy to encourage the use of:
 - (1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of executive council rules; and
 - (2) appropriate alternative dispute resolution procedures under Chapter 2009, Government Code, to assist in the resolution of internal and external disputes under the executive council's jurisdiction.
- (b) The executive council's procedures relating to alternative dispute resolution must conform, to the extent possible, to any model guidelines issued by the State Office of Administrative Hearings for the use of alternative dispute resolution by state agencies.
- (c) The executive council shall:
 - (1) coordinate the implementation of the policy adopted under Subsection (a);

- (2) provide training as needed to implement the procedures for negotiated rulemaking and alternative dispute resolution; and
- (3) collect data concerning the effectiveness of those procedures.

Sec. 507.160. ANNUAL REGISTRY.

- (a) The executive council shall annually prepare a registry of all license holders.
- (b) The executive council shall make the registry available to the public, license holders, and other state agencies.
- (c) The executive council may not include the home address of a license holder in a registry the executive council publishes on the executive council's Internet website unless the person requests that the person's home address appear in the registry on the website. A request under this subsection must be made in the manner prescribed by the executive council.
- (d) The home address of a license holder that is included in a registry the executive council prepares under this section is public information and is not excepted from required disclosure under Chapter 552, Government Code.

Sec. 507.161. CONFIDENTIALITY OF HOME ADDRESS AND TELEPHONE NUMBER. Except as provided by Section 507.160(d), the home address and telephone number of a license holder are confidential and not subject to disclosure under Chapter 552, Government Code.

SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES

Sec. 507.201. PUBLIC INTEREST INFORMATION.

- (a) The executive council shall prepare information of public interest describing the functions of the executive council and the procedures by which complaints are filed with and resolved by the executive council.
- (b) The executive council shall make the information available to the public and appropriate state agencies.

Sec. 507.202. COMPLAINTS.

- (a) The executive council by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the executive council for the purpose of directing complaints to the executive council. The executive council may provide for that notice:
 - (1) on each registration form, application, or written contract for services of a person regulated by the executive council;

- (2) on a sign prominently displayed in the place of business of a person regulated by the executive council; or
 - (3) in a bill for services provided by a person regulated by the executive council.
- (b) The executive council shall list with its regular telephone number any toll-free telephone number established under other state law that may be called to present a complaint about a person regulated by the executive council.

Sec. 507.203. INFORMATION ABOUT COMPLAINT ACTIONS.

- (a) The executive council shall maintain a system to promptly and efficiently act on complaints filed with the executive council. The executive council shall maintain information about parties to the complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and its disposition.
- (b) The executive council shall make information available describing its procedures for complaint investigation and resolution.
- (c) The executive council shall periodically notify the parties to a complaint of the status of the complaint until final disposition of the complaint.

Sec. 507.204. GENERAL RULES REGARDING COMPLAINT INVESTIGATION.

- (a) The executive council shall adopt rules concerning the investigation of a complaint filed with the executive council. The rules adopted under this section must:
- (1) distinguish between categories of complaints;
 - (2) ensure that a complaint is not dismissed without appropriate consideration;
 - (3) require that the executive council be advised of a complaint that is dismissed and that a letter be sent to the person who filed the complaint explaining the action taken on the complaint;
 - (4) ensure that the person who files a complaint has an opportunity to explain the allegations made in the complaint; and
 - (5) prescribe guidelines concerning the categories of complaints that require the use of a private investigator and prescribe the procedures for the executive council to obtain the services of a private investigator.
- (b) The executive council shall:
- (1) dispose of a complaint in a timely manner; and
 - (2) establish a schedule for conducting each phase of the disposition of a complaint that is under the control of the

executive council not later than the 30th day after the date the executive council receives the complaint.

- (c) The executive council shall notify the parties to a complaint of the projected time requirements for pursuing the complaint.
- (d) The executive council shall notify the parties to a complaint of any change in the schedule not later than the seventh day after the date the change is made.
- (e) The executive director shall notify the executive council of a complaint that is unresolved after the time prescribed by the executive council for resolving the complaint so that the executive council may take necessary action on the complaint.
- (f) The executive council shall assign priorities and investigate complaints based on:
 - (1) the severity of the conduct alleged in the complaint; and
 - (2) the degree of harm to public health and safety.

Sec. 507.205. CONFIDENTIALITY OF COMPLAINT INFORMATION.

- (a) Except as provided by Subsection (b), a complaint and investigation and all information and materials compiled by the executive council in connection with the complaint and investigation are not subject to:
 - (1) disclosure under Chapter 552, Government Code; or
 - (2) disclosure, discovery, subpoena, or other means of legal compulsion for release of information to any person.
- (b) A complaint or investigation subject to Subsection (a) and all information and materials compiled by the executive council in connection with the complaint may be disclosed to:
 - (1) the executive council and executive council employees or agents involved in license holder discipline;
 - (2) a party to a disciplinary action against the license holder or that party's designated representative;
 - (3) the board for the applicable profession;
 - (4) a law enforcement agency;
 - (5) a governmental agency, if:
 - (A) the disclosure is required or permitted by law; and
 - (B) the agency obtaining the disclosure protects the identity of any patient whose records are examined; or
 - (6) a person engaged in bona fide research, if all information identifying a specific individual has been deleted.
- (c) Unless good cause for delay is shown to the presiding officer at the hearing, the executive council shall provide the license holder with access to all information that the executive council intends to offer into evidence at the hearing not later than the 30th day after the date the executive council receives a written request from a license

holder who is entitled to a hearing under this chapter or from the license holder's attorney of record.

- (d) The executive council shall protect the identity of any patient whose records are examined in connection with a disciplinary investigation or proceeding against a license holder, except a patient who:
 - (1) initiates the disciplinary action; or
 - (2) has submitted a written consent to release the records.

Sec. 507.206. SUBPOENAS.

- (a) In the investigation of a complaint filed with the executive council, the executive director or presiding officer of the executive council may issue a subpoena to compel the attendance of a relevant witness or the production, for inspection or copying, of relevant evidence that is in this state.
- (b) A subpoena may be served personally or by certified mail.
- (c) If a person fails to comply with a subpoena, the executive council, acting through the attorney general, may file suit to enforce the subpoena in a district court in Travis County or in the county in which a hearing conducted by the executive council may be held.
- (d) On finding that good cause exists for issuing the subpoena, the court shall order the person to comply with the subpoena. The court may punish a person who fails to obey the court order.
- (e) The executive council shall pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount the executive council may charge for copies of its records.
- (f) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103, Government Code.
- (g) Information and materials subpoenaed or compiled by the executive council in connection with the investigation of a complaint may be disclosed only as provided by Section 507.205.

Sec. 507.207. PUBLIC PARTICIPATION. The executive council shall develop and implement policies that provide the public with a reasonable opportunity to appear before the executive council and to speak on any issue under the jurisdiction of the executive council.

SUBCHAPTER F. GENERAL LICENSING PROVISIONS.

Sec. 507.251. CRIMINAL HISTORY RECORD INFORMATION FOR LICENSE ISSUANCE.

- (a) The executive council shall require that an applicant for a license submit a complete and legible set of fingerprints, on a form prescribed by the executive council, to the executive council or to

the Department of Public Safety for the purpose of obtaining criminal history record information from the Department of Public Safety and the Federal Bureau of Investigation.

- (b) The executive council may not issue a license to a person who does not comply with the requirement of Subsection (a).
- (c) The executive council shall conduct a criminal history record information check of each applicant for a license using information:
 - (1) provided by the individual under this section; and
 - (2) made available to the executive council by the Department of Public Safety, the Federal Bureau of Investigation, and any other criminal justice agency under Chapter 411, Government Code.
- (d) The executive council may:
 - (1) enter into an agreement with the Department of Public Safety to administer a criminal history record information check required under this section; and
 - (2) authorize the Department of Public Safety to collect from each applicant the costs incurred by the Department of Public Safety in conducting the criminal history record information check.

Sec. 507.252. EXAMINATION RESULTS.

- (a) The executive council shall notify each examinee of the results of an examination not later than the 30th day after the date the examination is administered. If an examination is graded or reviewed by a national testing service, the executive council shall notify each examinee of the results of the examination not later than the 14th day after the date the executive council receives the results from the testing service.
- (b) If the notice of examination results graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the executive council shall notify each examinee of the reason for the delay before the 90th day.
- (c) If requested in writing by a person who fails an examination, the executive council shall provide to the person an analysis of the person's performance on the examination.

Sec. 507.253. REEXAMINATION. The executive council by rule shall establish:

- (1) a limit on the number of times an applicant for a license who fails an examination may retake the examination; and
- (2) the requirements for retaking an examination.

Sec. 507.254. FORM OF LICENSE. A license issued by the executive council must include the name of the board applicable to the license holder.

Sec. 507.255. LICENSE RENEWAL.

- (a) A person who is otherwise eligible to renew a license may renew an unexpired license by paying the required renewal fee to the executive council before the expiration date of the license.
- (b) If the person's license has been expired for 90 days or less, the person may renew the license by paying to the executive council a fee in an amount equal to one and one-half times the required renewal fee.
- (c) If the person's license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the executive council a fee in an amount equal to two times the required renewal fee.
- (d) If the person's license has been expired for one year or more, the person may not renew the license. The person may obtain a new license by submitting to reexamination and complying with the requirements and procedures for obtaining an original license.

Sec. 507.256. RENEWAL OF EXPIRED LICENSE OF OUT-OF-STATE PRACTITIONER.

- (a) The executive council may renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date the person applies for renewal.
- (b) The person must pay to the executive council a fee in an amount equal to two times the required renewal fee for the license.

Sec. 507.257. CRIMINAL HISTORY RECORD INFORMATION REQUIREMENT FOR LICENSE RENEWAL.

- (a) An applicant renewing a license issued under this chapter shall submit a complete and legible set of fingerprints for purposes of performing a criminal history record information check of the applicant as provided by Section 507.251.
- (b) The executive council may administratively suspend or refuse to renew the license of a person who does not comply with the requirement of Subsection (a).
- (c) A license holder is not required to submit fingerprints under this section for the renewal of a license if the license holder has previously submitted fingerprints under:
 - (1) Section 507.251 for the initial issuance of the license; or
 - (2) this section as part of a prior license renewal.

Sec. 507.258. SEARCH OF NATIONAL PRACTITIONER DATABASE. The executive council shall establish a process to search at least one national practitioner database to determine whether another state has taken any disciplinary or other legal action against an applicant or license holder before issuing an initial or renewal license.

Sec. 507.259. ASSISTANCE IN LICENSING DETERMINATIONS. The executive council shall adopt rules establishing the manner in which the executive council will solicit input from and request the assistance of the applicable board for a profession regulated by the executive council when the executive council is considering an application for the issuance or renewal of a license that involves an issue related to standards of care or an applicant's professional qualifications.

SUBCHAPTER G. DISCIPLINARY ACTIONS AND PROCEDURES.

Sec. 507.301. DISCIPLINARY ACTIONS.

- (a) The executive council may deny, revoke, suspend, or refuse to renew a license or may reprimand a license holder if the applicant or license holder violates:
 - (1) this chapter;
 - (2) a law of this state regulating the license holder's profession;
 - (3) an executive council rule; or
 - (4) a statute or rule of another state as determined through a search conducted as provided by Section 507.258 if the violation would constitute a violation described by Subdivision (1), (2), or (3) had it occurred in this state.
- (b) The executive council may place on probation a person whose license is suspended. If a license suspension is probated, the executive council may require the person to:
 - (1) report regularly to the executive council on matters that are the basis of the probation;
 - (2) limit the person's practice to the areas prescribed by the executive council; or
 - (3) continue or review continuing professional education until the person attains a degree of skill satisfactory to the executive council in those areas that are the basis for the probation.

Sec. 507.302. TEMPORARY SUSPENSION.

- (a) The executive council or a three-member committee of executive council members designated by the executive council shall temporarily suspend the license of a license holder if the executive council or committee determines from the evidence or information

- presented to it that continued practice by the license holder would constitute a continuing and imminent threat to the public welfare.
- (b) A license may be suspended under this section without notice or hearing on the complaint if:
 - (1) action is taken to initiate proceedings for a hearing before the State Office of Administrative Hearings simultaneously with the temporary suspension; and
 - (2) a hearing is held as soon as practicable under this chapter and Chapter 2001, Government Code.
 - (c) The State Office of Administrative Hearings shall hold a preliminary hearing not later than the 14th day after the date of the temporary suspension to determine if there is probable cause to believe that a continuing and imminent threat to the public welfare still exists. A final hearing on the matter shall be held not later than the 61st day after the date of the temporary suspension.

Sec. 507.303. HEARING; ADMINISTRATIVE PROCEDURE.

- (a) A license holder is entitled to a hearing before the State Office of Administrative Hearings before a sanction is imposed under this subchapter.
- (b) A proceeding under this subchapter is governed by Chapter 2001, Government Code.

Sec. 507.304. SCHEDULE OF SANCTIONS.

- (a) The executive council by rule shall adopt a broad schedule of sanctions.
- (b) The State Office of Administrative Hearings shall use the schedule for any sanction imposed under this subchapter as the result of a hearing conducted by that office.

Sec. 507.305. INFORMAL PROCEEDINGS.

- (a) The executive council by rule shall adopt procedures governing:
 - (1) informal disposition of a contested case under Section 2001.056, Government Code; and
 - (2) an informal proceeding held in compliance with Section 2001.054, Government Code.
- (b) Rules adopted under this section must:
 - (1) provide the complainant and the license holder with an opportunity to be heard; and
 - (2) require the presence of a member of the executive council's legal staff or an attorney employed by the attorney general to advise the executive council or the executive council's employees.

Sec. 507.306. ASSISTANCE IN DISCIPLINARY PROCEEDINGS.

- (a) The executive council shall adopt rules establishing the manner in which the executive council will solicit input from and request the assistance of the applicable board for a profession regulated by the executive council, regarding a disciplinary proceeding before the executive council involving an issue or complaint related to standards of care or ethical practice.
- (b) Rules adopted under this section must include a process for referring a complaint to the applicable board if the complaint alleges:
 - (1) a substantive violation of a standard of care or ethical guideline for the profession; or
 - (2) an act of a license holder that violates the profession's scope of practice.
- (c) On receiving a recommended disposition of a complaint from the applicable board, the executive council shall adopt the recommended disposition unless the executive council determines that:
 - (1) the recommended disposition would:
 - (A) have an anti-competitive effect;
 - (B) result in an administrative inconsistency; or
 - (C) raise concerns relating to good governance practices;or
 - (2) any recommended disciplinary penalty would deviate substantially from the schedule of sanctions for the applicable profession.

SUBCHAPTER H. ADMINISTRATIVE PENALTY.

Sec. 507.351. IMPOSITION OF ADMINISTRATIVE PENALTY. The executive council may impose an administrative penalty on a person licensed or regulated by the executive council if the person violates this chapter, a law regulating the applicable profession, or an executive council rule.

Sec. 507.352. AMOUNT OF PENALTY.

- (a) The amount of an administrative penalty may not exceed \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.
- (b) The amount of the penalty must be based on:
 - (1) the seriousness of the violation, including:
 - (A) the nature, circumstances, extent, and gravity of any prohibited act; and
 - (B) the hazard or potential hazard created to the health, safety, or economic welfare of the public;

- (2) the economic harm to property or the environment caused by the violation;
- (3) the history of previous violations;
- (4) the amount necessary to deter a future violation;
- (5) efforts made to correct the violation; and
- (6) any other matter that justice may require.

Sec. 507.353. NOTICE OF VIOLATION AND PENALTY. If the executive council determines that a violation occurred, the executive council shall give written notice of the violation to the person alleged to have committed the violation. The notice may be given by certified mail. The notice must:

- (1) include a brief summary of the alleged violation;
- (2) state the amount of the administrative penalty recommended by the executive council; and
- (3) inform the person of the person's right to a hearing on the occurrence of the violation, the amount of the penalty, or both.

Sec. 507.354. PENALTY TO BE PAID OR HEARING REQUESTED.

- (a) Not later than the 20th day after the date the person receives the notice under Section 507.353, the person may in writing:
 - (1) accept the executive council's determination and recommended administrative penalty; or
 - (2) request a hearing on the occurrence of the violation, the amount of the penalty, or both.
- (b) If the person accepts the executive council's determination and recommended penalty, the executive council shall issue an order and impose the recommended penalty.

Sec. 507.355. HEARING.

- (a) If the person requests a hearing or fails to respond in a timely manner to the notice under Section 507.353, the executive council shall set a hearing and give written notice of the hearing to the person.
- (b) An administrative law judge of the State Office of Administrative Hearings shall hold the hearing.
- (c) The administrative law judge shall make findings of fact and conclusions of law and promptly issue to the executive council a proposal for a decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

Sec. 507.356. DECISION BY EXECUTIVE COUNCIL.

- (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the executive council by order may determine that:

- (1) a violation occurred and impose an administrative penalty;
or
- (2) a violation did not occur.
- (b) The executive council shall give notice of the order to the person. The notice must include a statement of the right of the person to judicial review of the order.

Sec. 507.357. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.

- (a) Not later than the 30th day after the date the executive council's order becomes final, the person shall:
 - (1) pay the administrative penalty; or
 - (2) file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both.
- (b) Within the 30-day period prescribed by Subsection (a), a person who files a petition for judicial review may:
 - (1) stay enforcement of the penalty by:
 - (A) paying the penalty to the court for placement in an escrow account; or
 - (B) giving to the court a supersedeas bond approved by the court that is:
 - (i) for the amount of the penalty; and
 - (ii) effective until judicial review of the executive council's order is final; or
 - (2) request the court to stay enforcement of the penalty by:
 - (A) filing with the court a sworn affidavit of the person stating that the person is financially unable to pay the penalty and is financially unable to give the supersedeas bond; and
 - (B) giving a copy of the affidavit to the executive council by certified mail.
- (c) If the executive council receives a copy of an affidavit under Subsection (b)(2), the executive council may file with the court a contest to the affidavit not later than the fifth day after the date the copy is received.
- (d) The court shall hold a hearing on the facts alleged in the affidavit as soon as practicable and shall stay the enforcement of the penalty on finding that the alleged facts are true. The person who files the affidavit has the burden of proving that the person is financially unable to pay the penalty or to give a supersedeas bond.

Sec. 507.358. COLLECTION OF PENALTY. If the person does not pay the administrative penalty and enforcement of the penalty is not stayed, the

executive council may refer the matter to the attorney general for collection of the penalty.

Sec. 507.359. DETERMINATION BY COURT.

- (a) If the court sustains the determination that a violation has occurred, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced amount of the penalty.
- (b) If the court does not sustain the determination that a violation occurred, the court shall order that a penalty is not owed.

Sec. 507.360. REMITTANCE OF PENALTY AND INTEREST.

- (a) If, after judicial review, the administrative penalty is reduced or not imposed by the court, the court shall, after the judgment becomes final:
 - (1) order that the appropriate amount, plus accrued interest, be remitted to the person if the person paid the penalty; or
 - (2) order the release of the bond:
 - (A) if the person gave a supersedeas bond and the penalty is not imposed; or
 - (B) after the person pays the penalty if the person gave a supersedeas bond and the penalty is reduced.
- (b) The interest paid under Subsection (a)(1) is the rate charged on loans to depository institutions by the New York Federal Reserve Bank. The interest shall be paid for the period beginning on the date the penalty is paid and ending on the date the penalty is remitted.

Sec. 507.361. ADMINISTRATIVE PROCEDURE. A proceeding under this subchapter is subject to Chapter 2001, Government Code.

SUBCHAPTER I. OTHER PENALTIES AND ENFORCEMENT PROVISIONS.

Sec. 507.401. INJUNCTION.

- (a) In addition to any other action authorized by law, the executive council may institute an action to enjoin a violation of this chapter, a law regulating the applicable profession, or an executive council rule.
- (b) An action filed under this section must be filed in Travis County, the county of the defendant's residence, or the county in which any part of the violation occurred.
- (c) The attorney general or the appropriate county or district attorney shall represent the executive council in an action under this section.

Sec. 507.402. CIVIL PENALTY.

- (a) A person who violates this chapter, a law regulating the applicable profession, or an executive council rule is liable to the state for a civil penalty not to exceed \$1,000 for each day of violation.
- (b) At the request of the executive council, the attorney general shall bring an action to recover a civil penalty authorized under this section.

Sec. 507.403. CEASE AND DESIST ORDER.

- (a) If it appears to the executive council that an unlicensed person is violating this chapter, a law regulating the applicable profession, or an executive council rule, the executive council, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity.
- (b) A violation of an order under this section constitutes grounds for imposing an administrative penalty under Subchapter H.

Sec. 507.404. MONITORING OF LICENSE HOLDER. The executive council by rule shall develop a system to monitor a license holder's compliance with applicable laws and executive council rules. Rules adopted under this section must include procedures to:

- (1) monitor for compliance a license holder who is ordered by the executive council to perform certain acts; and
- (2) identify and monitor each license holder who represents a risk to the public.

TEXAS STATE BOARD OF EXAMINERS **OF PROFESSIONAL COUNSELORS** **STATUTES**

SUBCHAPTER A. GENERAL PROVISIONS

Sec. 503.001. SHORT TITLE. This chapter may be cited as the Licensed Professional Counselor Act.

Sec. 503.002. GENERAL DEFINITIONS. In this chapter:

- (1) "Board" means the Texas State Board of Examiners of Professional Counselors.
- (1-a) Repealed by Acts 2015, 84th Leg., R.S., Ch. 1, Sec. 5.318(6), eff. April 2, 2015.
- (2) "Executive council" means the Texas Behavioral Health Executive Council.
- (3) "Graduate semester hour" means a semester hour or the quarter hour equivalent as defined by regional accrediting educational associations when applied only to domestic training programs.
- (4) "Licensed professional counselor" means a person who holds a license issued under this chapter and who:
 - (A) represents the person to the public by any title or description of services incorporating the words "licensed counselor" and offers to provide professional counseling services to any individual, couple, family, group, or other entity for compensation, implying that the person offering the services is licensed and trained, experienced, or expert in counseling; or
 - (B) engages in any practice of counseling.

Sec. 503.003. DEFINITION: PRACTICE OF PROFESSIONAL COUNSELING.

- (a) In this chapter, "practice of professional counseling" means the application of mental health, psychotherapeutic, and human development principles to:
 - (1) facilitate human development and adjustment throughout life;
 - (2) prevent, assess, evaluate, and treat mental, emotional, or behavioral disorders and associated distresses that interfere with mental health;
 - (3) conduct assessments and evaluations to establish treatment goals and objectives; and

- (4) plan, implement, and evaluate treatment plans using counseling treatment interventions that include:
 - (A) counseling;
 - (B) assessment;
 - (C) consulting; and
 - (D) referral.
- (b) In this section:
 - (1) "Assessment" means the selection, administration, scoring, and interpretation of an instrument designed to assess an individual's aptitudes, attitudes, abilities, achievements, interests, personal characteristics, disabilities, and mental, emotional, and behavioral disorders, and the use of methods and techniques for understanding human behavior that may include the evaluation, assessment, and treatment by counseling methods, techniques, and procedures for mental and emotional disorders, alcoholism and substance abuse, and conduct disorders. The term does not include the use of standardized projective techniques or permit the diagnosis of a physical condition or disorder.
 - (2) "Consulting" means applying scientific principles and procedures in counseling and human development to assist in understanding and solving current or potential problems that the person seeking consultation may have with regard to another person, including an individual, group, or organization.
 - (3) "Counseling" means assisting a client through a therapeutic relationship, using a combination of mental health and human development principles, methods, and techniques, including the use of psychotherapy, to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life.
 - (4) "Counseling treatment intervention" means the application of cognitive, affective, behavioral, psychodynamic, and systemic counseling strategies, including strategies for developmental, wellness, and psychological dysfunction that reflect a pluralistic society. The term does not permit or include the diagnosis or treatment of a physical condition or disorder.

The term includes:

 - (A) an intervention specifically implemented in the context of a professional counseling relationship;
 - (B) individual, group, or family counseling or psychotherapy;
 - (C) the assessment, evaluation, and treatment of a person with a mental, emotional, or behavioral disorder;

- (D) guidance and consulting to facilitate normal growth and development, including educational and career development;
 - (E) the use of functional assessment and counseling for a person requesting assistance in adjustment to a disability or handicapping condition;
 - (F) research; and
 - (G) referrals.
- (5) "Referral" means:
- (A) evaluating and identifying the needs of a person being counseled to determine the advisability of referral to another specialist;
 - (B) informing the person of that judgment; and
 - (C) communicating to the person to whom the referral is made as requested by the person being counseled or as appropriate.
- (c) The use of specific methods, techniques, or modalities within the practice of professional counseling is limited to professional counselors appropriately trained in the use of those methods, techniques, or modalities.

Sec. 503.004. PRACTICE OF MEDICINE NOT AUTHORIZED. This chapter does not authorize the practice of medicine as defined by the law of this state.

SUBCHAPTER B. APPLICATION OF CHAPTER

Sec. 503.051. COUNSELING FOR GOVERNMENT OR EDUCATIONAL INSTITUTION. This chapter does not apply to an activity, service, or use of an official title by a person employed as a counselor by a federal, state, county, or municipal agency or, except as provided by Section 21.003(b), Education Code, by a public or private educational institution if the person is performing counseling or counseling-related activities within the scope of the person's employment.

Sec. 503.052. COUNSELOR INTERN. This chapter does not apply to an activity or service of a student, intern, or trainee in counseling pursuing a course of study in counseling in a regionally accredited institution of higher education or training institution if:

- (1) the activity or service is a part of the supervised course of study; and
- (2) the person is designated as a "counselor intern."

Sec. 503.054. COUNSELING BY OTHER LICENSED OR CERTIFIED PROFESSIONAL OR BY RELIGIOUS PRACTITIONER. This chapter does not apply to an activity or service of any of the following persons performing counseling consistent with the law of this state, the person's training, and any

code of ethics of the person's profession if the person does not represent the person by any title or description as described by the definition of "licensed professional counselor" in Section 503.002:

- (1) a member of another profession licensed or certified by this state, including:
 - (A) a physician, registered nurse, psychologist, social worker, marriage and family therapist, chemical dependency counselor, physician assistant, or occupational therapist; or
 - (B) an optometrist engaged in the evaluation and remediation of learning or behavioral disabilities associated with or caused by a defective or abnormal condition of vision; or
- (2) a recognized religious practitioner, including a Christian Science practitioner recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal.

Sec. 503.055. PERSON LICENSED TO PRACTICE LAW. This chapter does not apply to an activity, service, title, or description of a person licensed to practice law.

Sec. 503.056. COUNSELING FOR NONPROFIT ORGANIZATION OR CHARITY. This chapter does not apply to an activity, service, title, or description of a person who is employed as a professional by or who volunteers in the practice of counseling for a public or private nonprofit organization or charity if the person:

- (1) is accountable to the person's sponsoring organization; and
- (2) does not use the title or hold the person out to be a licensed counselor.

Sec. 503.057. COUNSELING UNDER OTHER CERTIFICATION. This chapter does not apply to an activity, service, title, or description of a person certified by the Commission on Rehabilitation Counselor Certification or the Commission on Certification of Work Adjustment and Vocational Evaluation Specialists who:

- (1) is performing counseling consistent with state law, the person's training, and any code of ethics of the person's profession; and
- (2) does not use the title or hold the person out to be a licensed counselor.

Sec. 503.059. EXEMPT PERSON VOLUNTARILY LICENSED UNDER CHAPTER. A person otherwise exempt under this subchapter who obtains a

license under this chapter is subject to this chapter to the same extent as any other person licensed under this chapter.

Sec. 503.060. MUSICAL THERAPY SERVICES. This chapter does not apply to an activity, service, title, or description of a person who:

- (1) is certified by the Certification Board for Music Therapists or listed with the National Music Therapy Registry;
- (2) performs a music therapy service consistent with:
 - (A) state law;
 - (B) the person's training; and
 - (C) the code of ethics of the person's profession; and
- (3) does not engage in the use of psychotherapy or use the title of licensed counselor or represent that the person is a licensed counselor.

SUBCHAPTER C. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

Sec. 503.101. BOARD MEMBERSHIP.

- (a) The Texas State Board of Examiners of Professional Counselors consists of nine members appointed by the governor with the advice and consent of the senate as follows:
 - (1) five licensed professional counselor members, at least three of whom are in private practice and at least one of whom is a counselor educator; and
 - (2) four members who represent the public.
- (b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Sec. 503.102. MEMBERSHIP QUALIFICATIONS.

- (a) To be qualified for appointment as a licensed professional counselor member of the board, a person must:
 - (1) be a citizen of the United States and a resident of this state for the 30 months preceding appointment;
 - (2) have engaged in the field of counseling for at least 24 months or 2,000 hours; and
 - (3) be licensed under this chapter.
- (b) To be qualified for appointment as a public member of the board, a person must:
 - (1) be a citizen of the United States and a resident of this state for the 30 months preceding appointment; and
 - (2) be at least 18 years old.

Sec. 503.103. ELIGIBILITY OF PUBLIC MEMBERS. A person is not eligible for appointment as a public member of the board if:

- (1) the person is registered, certified, or licensed by an occupational regulatory agency in the field of health care;
- (2) the person's spouse is registered, certified, or licensed by an occupational regulatory agency in the field of mental health; or
- (3) the person or the person's spouse:
 - (A) is employed by or participates in the management of a business entity or other organization receiving funds from the board;
 - (B) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization receiving funds from the board; or
 - (C) uses or receives a substantial amount of funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Sec. 503.104. MEMBERSHIP RESTRICTIONS.

- (a) In this section, "Texas trade association" means a cooperative and voluntarily joined statewide association of business or professional competitors in this state designed to assist its members and its industry or profession in dealing with mutual business or professional problems and in promoting their common interest.
- (b) A person may not be a member of the board if:
 - (1) the person is an officer, employee, manager, or paid consultant of a Texas trade association in the field of health care; or
 - (2) the person's spouse is an officer, manager, or paid consultant of a Texas trade association in the field of mental health.
- (c) A person may not be a member of the board if the person is required to register as a lobbyist under Chapter [305](#), Government Code, because of the person's activities for compensation on behalf of a profession related to the operation of the board.

Sec. 503.105. TERMS. Board members serve staggered six-year terms with the terms of three members expiring on February 1 of each odd-numbered

year. In making an appointment to the board, the governor shall specify which member the new appointee succeeds.

Sec. 503.106. OFFICERS.

- (a) The governor shall designate a member of the board as presiding officer. The presiding officer serves in that capacity at the will of the governor.
- (b) The board shall elect an assistant presiding officer to serve as provided by board rule.

Sec. 503.107. GROUNDS FOR REMOVAL.

- (a) It is a ground for removal from the board that a member:
 - (1) does not have at the time of taking office the qualifications required by Section 503.102;
 - (2) does not maintain during the service on the board the qualifications required by Section 503.102;
 - (3) is ineligible for membership under Section 503.103 or 503.104;
 - (4) cannot, because of illness or disability, discharge the member's duties for a substantial part of the member's term;
or
 - (5) is absent from more than half of the regularly scheduled board meetings that the member is eligible to attend during a calendar year without an excuse approved by a majority vote of the board.
- (b) The validity of an action of the board is not affected by the fact that it is taken when a ground for removal of a member of the board exists.
- (c) If the executive director of the executive council has knowledge that a potential ground for removal exists, the executive director shall notify the presiding officer of the board of the potential ground. The presiding officer shall then notify the governor and the attorney general that a potential ground for removal exists. If the potential ground for removal involves the presiding officer, the executive director shall notify the next highest ranking officer of the board, who shall then notify the governor and attorney general that a potential ground for removal exists.

Sec. 503.108. REIMBURSEMENT. A board member may receive reimbursement for expenses as provided by the General Appropriations Act.

Sec. 503.109. MEETINGS. The board shall hold at least two regular meetings each year as provided by board rule.

Sec. 503.110. TRAINING.

- (a) A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting until the person completes a training program that complies with this section.
- (b) The training program must provide the person with information regarding:
 - (1) the law governing board operations;
 - (2) the programs, functions, rules, and budget of the board;
 - (3) the scope of and limitations on the rulemaking authority of the board;
 - (4) the types of board rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business the board regulates, including any rule, interpretation, or enforcement action that:
 - (A) regulates the scope of practice of persons in a profession or business the board regulates;
 - (B) restricts advertising by persons in a profession or business the board regulates;
 - (C) affects the price of goods or services provided by persons in a profession or business the board regulates; or
 - (D) restricts participation in a profession or business the board regulates;
 - (5) the results of the most recent formal audit of the board;
 - (6) the requirements of:
 - (A) laws relating to open meetings, public information, administrative procedure, and disclosure of conflicts of interest; and
 - (B) other laws applicable to members of the board in performing their duties; and
 - (7) any applicable ethics policies adopted by the board or the Texas Ethics Commission.
- (c) A person appointed to the board is entitled to reimbursement, as provided by the General Appropriations Act, for the travel expenses incurred in attending the training program regardless of whether the attendance at the program occurs before or after the person qualifies for office.

- (d) The executive director of the executive council shall create a training manual that includes the information required by Subsection (b). The executive director shall distribute a copy of the training manual annually to each board member. Each member of the board shall sign and submit to the executive director a statement acknowledging that the member received and has reviewed the training manual.

Sec. 503.111. OFFICIAL OATH. Before assuming the duties of office, each board member shall file with the secretary of state a copy of the constitutional oath of office taken by the member.

SUBCHAPTER E. POWERS AND DUTIES

Sec. 503.201. GENERAL POWERS AND DUTIES OF EXECUTIVE COUNCIL.

- (a) The executive council shall:
 - (1) determine the qualifications and fitness of an applicant for a license, license renewal, or provisional license;
 - (2) examine for, deny, approve, issue, revoke, suspend, suspend on an emergency basis, place on probation, and renew the license of an applicant or license holder under this chapter;
 - (3) adopt and publish a code of ethics; and
 - (4) by rule adopt a list of authorized counseling methods or practices that a license holder may undertake or perform.
- (b) The executive council may request and shall receive the assistance of a state educational institution or other state agency.

Sec. 503.2015. BOARD DUTIES. The board shall propose to the executive council:

- (1) rules regarding:
 - (A) the qualifications necessary to obtain a license, including rules limiting an applicant's eligibility for a license based on the applicant's criminal history;
 - (B) the scope of practice of and standards of care and ethical practice for professional counseling; and
 - (C) continuing education requirements for license holders; and
- (2) a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

Sec. 503.208. COMPETENT PERFORMANCE OF PROFESSIONAL DUTIES.

The board shall identify the key factors for the competent performance by a license holder of the license holder's professional duties.

SUBCHAPTER G. LICENSE REQUIREMENTS

Sec. 503.301. LICENSE REQUIRED. A person may not engage in the practice of professional counseling unless the person is:

- (1) licensed under this chapter; or
- (2) exempt from this chapter under Subchapter B.

Sec. 503.302. QUALIFICATIONS FOR LICENSE.

- (a) A person qualifies for a license under this chapter if the person:
 - (1) is at least 18 years old;
 - (2) has a master's or doctoral degree in counseling or a related field;
 - (3) has successfully completed a graduate degree at a regionally accredited institution of higher education and the number of graduate semester hours required by executive council rule, which may not be less than 48 hours and must include 300 clock hours of supervised practicum that:
 - (A) is primarily counseling in nature; and
 - (B) meets the specific academic course content and training standards established by the executive council;
 - (4) has completed the number of supervised experience hours required by executive council rule, which may not be less than 3,000 hours working in a counseling setting that meets the requirements established by the executive council after the completion of the graduate program described by Subdivision (3);
 - (5) passes the license examination and jurisprudence examination required by this chapter;
 - (6) submits an application as required by the executive council, accompanied by the required application fee; and
 - (7) meets any other requirement prescribed by the executive council.
- (b) In establishing the standards described by Subsection (a)(3)(B), the executive council shall review and consider the standards as developed by the appropriate professional association.
- (c) The executive council may require the statements on a license application to be made under oath.

Sec. 503.3025. EXPERIENCE REQUIRED TO ACT AS SUPERVISOR. The executive council shall allow a license holder who has practiced as a licensed counselor in another state to count that out-of-state experience toward any experience that the license holder is required by executive council rule to obtain to act as a supervisor under this chapter if the executive council

determines that the other state has license requirements substantially equivalent to the requirements of this chapter.

Sec. 503.303. SPECIALIZATION IN ART THERAPY.

- (a) A person qualifies for a license as a professional counselor with a specialization in art therapy if the person:
 - (1) meets the requirements for a license under Section 503.302;
 - (2) holds:
 - (A) a master's or doctoral degree in art therapy that includes at least 700 hours of supervised practicum from an accredited institution; or
 - (B) a master's degree in a counseling-related field if the person has completed at least:
 - (i) 21 semester hours of sequential course work in the history, theory, and practice of art therapy; and
 - (ii) 700 hours of supervised practicum from an accredited institution;
 - (3) completes the following postgraduate experience in addition to the requirements of Subdivision (2) under the supervision of a licensed professional counselor with a specialization in art therapy:
 - (A) at least 1,000 client contact hours, if the applicant holds a degree described by Subdivision (2)(A); or
 - (B) at least 2,000 client contact hours, if the applicant holds a degree described by Subdivision (2)(B); and
 - (4) demonstrates successful completion of the national Certification Examination in Art Therapy of the Art Therapy Credentials Board.
- (b) The executive council shall accept an individual course from an art therapy program accredited through the American Art Therapy Association as satisfying the education requirements under Section 503.302(a)(3) if at least 75 percent of the course content is substantially equivalent to the content of a course required by executive council rule.
- (c) Repealed by Acts 2005, 79th Leg., Ch. 561, Sec. 25(4), eff. September 1, 2005.

Sec. 503.304. REVIEW OF APPLICATION.

- (a) Not later than the 30th day before the examination date, after investigation of a license application and review of other evidence submitted, the executive council shall notify the applicant that the application and evidence submitted are:
 - (1) satisfactory and accepted; or
 - (2) unsatisfactory and rejected.

- (b) If the executive council rejects an application, the executive council shall state in the notice the reasons for the rejection.

Sec. 503.305. LICENSE EXAMINATION.

- (a) The executive council shall administer examinations to determine the competence of qualified applicants at least twice each calendar year.
- (b) The executive council shall contract with a nationally recognized testing organization to develop and administer a written professional counselor licensing examination to applicants who apply for a license under this chapter.

Sec. 503.3055. JURISPRUDENCE EXAMINATION.

- (a) The board shall develop a jurisprudence examination to determine an applicant's knowledge of this chapter, executive council rules, and any other applicable laws of this state affecting the applicant's professional counseling practice. The executive council shall administer the examination at least twice each calendar year.
- (b) The executive council shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

Sec. 503.308. TEMPORARY LICENSE.

- (a) The executive council by rule may provide for the issuance of an associate license. Rules adopted under this subsection must provide a time limit for the period an associate license is valid.
- (b) The executive council by rule may adopt a system under which an associate license may be issued to a person who:
 - (1) meets all of the academic and examination requirements for licensing; and
 - (2) enters into a supervisory agreement with a supervisor approved by the executive council.

Sec. 503.310. PROVISIONAL LICENSE.

- (a) On application and payment of applicable fees, the executive council may issue a provisional license to a person who holds a license as a counselor or art therapist issued by another state or by a jurisdiction acceptable to the executive council.
- (b) An applicant for a provisional license must:
 - (1) be licensed in good standing as a counselor or art therapist in another state, territory, or jurisdiction that has licensing requirements substantially equivalent to the requirements of this chapter;

- (2) have passed the required license examination; and
- (3) be sponsored by a person licensed under this chapter with whom the applicant may practice under a provisional license.
- (c) An applicant is not required to comply with Subsection (b)(3) if the executive council determines that compliance with that subsection is a hardship to the applicant.
- (d) A provisional license is valid until the date the executive council approves or denies the provisional license holder's application for a license under Section 503.311.

Sec. 503.311. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE HOLDER.

- (a) The executive council shall issue a license to the holder of a provisional license who applies for a license if:
 - (1) the executive council verifies that the applicant has the academic and experience requirements for a regular license under this chapter; and
 - (2) the applicant satisfies any other license requirements under this chapter.
- (b) The executive council must complete the processing of a provisional license holder's application for a license not later than the later of:
 - (1) the 180th day after the date the provisional license is issued; or
 - (2) the date licenses are issued following completion of the next licensing and jurisprudence examinations.

Sec. 503.312. INACTIVE STATUS.

- (a) On request of a person licensed under this chapter, the executive council shall place the person's license on inactive status.
- (b) A person whose license is inactive:
 - (1) foregoes the licensing rights granted under this chapter; and
 - (2) is not required to pay a license renewal fee or any penalty fee.
- (c) A person whose license is inactive may apply to reactivate the license. The executive council shall reactivate the license if the applicant:
 - (1) pays a license fee;
 - (2) is not in violation of this chapter when the applicant applies to reactivate the license; and
 - (3) fulfills the requirements provided by executive council rule for the holder of an inactive license.

Sec. 503.313. RETIREMENT STATUS. The executive council by rule may adopt a system for placing a person licensed under this chapter on retirement status.

Sec. 503.314. DISPLAY AND SURRENDER OF LICENSE CERTIFICATE.

- (a) A person licensed under this chapter shall display the person's license certificate in an appropriate and public manner.
- (b) A license certificate issued by the executive council is the property of the executive council and must be surrendered on demand.

SUBCHAPTER H. LICENSE RENEWAL

Sec. 503.351. RENEWAL; ELIGIBILITY. A person licensed under this chapter may renew the license biennially if the person:

- (1) is not in violation of this chapter when the person applies for renewal; and
- (2) fulfills the continuing education requirements established by the executive council.

Sec. 503.352. LICENSE EXPIRATION DATE. The executive council shall adopt a system under which licenses expire on various dates during the year. On renewal of the license on the expiration date, the total license renewal fee is payable.

Sec. 503.353. NOTICE OF LICENSE EXPIRATION. Not later than the 30th day before the expiration date of a person's license, the executive council shall send written notice of the impending license expiration to the person at the person's last known address according to the executive council's records.

SUBCHAPTER I. DISCIPLINARY ACTIONS

Sec. 503.401. DISCIPLINARY ACTIONS.

- (a) A person licensed under this chapter is subject to disciplinary action under Subchapter G, Chapter 507, if the person:
 - (1) violates this chapter or a rule or code of ethics adopted under this chapter;
 - (2) commits an act for which the license holder would be liable under Chapter 81, Civil Practice and Remedies Code;
 - (3) is legally committed to an institution because of mental incompetence from any cause; or
 - (4) directly or indirectly offers to pay or agrees to accept remuneration to or from any person for securing or soliciting a patient or patronage.
- (b) Repealed by Acts 2019, 86th Leg., R.S., Ch. 768 (H.B. 1501), Sec. 2.113(80), eff. September 1, 2019.

- (c) Repealed by Acts 2019, 86th Leg., R.S., Ch. 768 (H.B. 1501), Sec. 2.113(80), eff. September 1, 2019.
- (d) Repealed by Acts 2019, 86th Leg., R.S., Ch. 768 (H.B. 1501), Sec. 2.113(80), eff. September 1, 2019.

Sec. 503.407. REFUND.

- (a) Subject to Subsection (b), the executive council may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under Subchapter H, Chapter 507.
- (b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the license holder for a service regulated by this chapter. The executive council may not require payment of other damages or estimate harm in a refund order.

SUBCHAPTER J. PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 503.452. CRIMINAL OFFENSES.

- (a) A person commits an offense if the person knowingly:
 - (1) engages in the practice of professional counseling without holding a license under this chapter;
 - (2) represents the person by the title "Licensed Professional Counselor" or "Licensed Counselor" without holding a license under this chapter;
 - (3) represents the person by the title "Licensed Professional Counselor -- Art Therapist," "Art Therapist," or by the initials "L.P.C. -- A.T." or "A.T." without:
 - (A) holding a license with a specialization in art therapy under Section 503.303; or
 - (B) holding a license under Section 503.309; or
 - (4) uses any title, words, letters, or abbreviations that imply that the person is licensed under this chapter if the person is not licensed under this chapter.
- (b) An offense under this section is a Class B misdemeanor.

Sec. 503.453. REPORT OF ALLEGED OFFENSE. The executive council shall notify the appropriate prosecuting attorney of an alleged offense committed under this chapter.

TEXAS HEALTH AND SAFETY CODE

Chapter 611. Mental Health Records

§611.001. Definitions. In this chapter:

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

§611.002. Confidentiality of Information and Prohibition Against Disclosure.

- (a) Communications between a patient and a professional, and records of the identity, diagnosis, evaluation, or treatment of a patient that are created or maintained by a professional, are confidential.
- (b) Confidential communications or records may not be disclosed except as provided by Section 611.004, 611.0041 or 611.0045.
- (b-1) No exception to the privilege of confidentiality under Section 611.004 may be construed to create an independent duty or requirement to disclose the confidential information to which the exception applies.
- (c) This section applies regardless of when the patient received services from a professional.

§611.003. Persons Who May Claim Privilege of Confidentiality.

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

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

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

- (a-1) No civil, criminal, or administrative cause of action exists against a person described by Section 611.001(2)(A) or (B) for the disclosure of confidential information in accordance with Subsection (a)(2). A cause of action brought against the person for the disclosure of the confidential information must be dismissed with prejudice.
- (b) Personnel who receive confidential information under Subsection (a)(3) may not directly or indirectly identify or otherwise disclose the identity of a patient in a report or in any other manner.
- (c) The exception in Subsection (a)(8) applies only to records created by the state hospital or state school or by the employees of the hospital or school. Information or records that identify a patient may be released only with the patient's proper consent.
- (d) A person who receives information from confidential communications or records may not disclose the information except to the extent that disclosure is consistent with the authorized purposes for which the person first obtained the information. This subsection does not apply to a person listed in Subsection (a)(4) or (a)(5) who is acting on the patient's behalf.

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

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

§611.0045. Right to Mental Health Record.

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

section within a reasonable time and may charge a reasonable fee.

- (j) Notwithstanding Section 159.002, Occupations Code, this section applies to the release of a confidential record created or maintained by a professional, including a physician, that relates to the diagnosis, evaluation, or treatment of a mental or emotional condition or disorder, including alcoholism or drug addiction.
- (k) The denial of a patient's access to any portion of a record by the professional or other entity that has possession or control of the record suspends, until the release of that portion of the record, the running of an applicable statute of limitations on a cause of action in which evidence relevant to the cause of action is in that portion of the record.

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

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

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

- (a) A professional may disclose confidential information in:
 - (1) a judicial or administrative proceeding brought by the patient or the patient's legally authorized representative against a professional, including malpractice proceedings;
 - (2) a license revocation proceeding in which the patient is a complaining witness and in which disclosure is relevant to the claim or defense of a professional;
 - (3) a judicial or administrative proceeding in which the patient waives the patient's right in writing to the privilege of confidentiality of information or when a representative of the patient acting on the patient's behalf submits a written waiver to the confidentiality privilege;

- (4) a judicial or administrative proceeding to substantiate and collect on a claim for mental or emotional health services rendered to the patient;
 - (5) a judicial proceeding if the judge finds that the patient, after having been informed that communications would not be privileged, has made communications to a professional in the course of a court-ordered examination relating to the patient's mental or emotional condition or disorder, except that those communications may be disclosed only with respect to issues involving the patient's mental or emotional health;
 - (6) a judicial proceeding affecting the parent-child relationship;
 - (7) any criminal proceeding, as otherwise provided by law;
 - (8) a judicial or administrative proceeding regarding the abuse or neglect, or the cause of abuse or neglect, of a resident of an institution, as that term is defined by Chapter 242;
 - (9) a judicial proceeding relating to a will if the patient's physical or mental condition is relevant to the execution of the will;
 - (10) an involuntary commitment proceeding for court-ordered treatment or for a probable cause hearing under:
 - (A) Chapter 462;
 - (B) Chapter 574; or
 - (C) Chapter 593; or
 - (11) a judicial or administrative proceeding where the court or agency has issued an order or subpoena.
- (b) On granting an order under Subsection (a)(5), the court, in determining the extent to which disclosure of all or any part of a communication is necessary, shall impose appropriate safeguards against unauthorized disclosure.

§611.007. Revocation of Consent.

- (a) Except as provided by Subsection (b), a patient or a patient's legally authorized representative may revoke a disclosure consent to a professional at any time. A revocation is valid only if it is written, dated, and signed by the patient or legally authorized representative.
- (b) A patient may not revoke a disclosure that is required for purposes of making payment to the professional for mental health care services provided to the patient.

- (c) A patient may not maintain an action against a professional for a disclosure made by the professional in good faith reliance on an authorization if the professional did not have notice of the revocation of the consent.

§611.008. Request by Patient.

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

OTHER RELEVANT LAWS

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

Texas Family Code:

Chapter 32, Consent to Medical, Dental, Psychological and Surgical Treatment

Chapter 153, Rights of Parents and Other Conservators to Consent to Treatment of Child and Access to Child's Records

Chapter 107, Special Appointments, Child Custody Evaluations and Adoption Evaluations

Chapter 261, Duty to Report Child Abuse and Neglect

Texas Human Resource Code:

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

Texas Civil Practice and Remedies Code:

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

Texas Occupations Code:

Chapter 116, Training Course on Human Trafficking Prevention