

CHAPTER 808

S.B. No. 632

An Act relating to the licensing and regulation of psychologists; amending the Psychologists' Certification and Licensing Act, as amended (Article 4512c, Vernon's Texas Civil Statutes), by amending Sections 2, 7, 8, 9, 11, 16, 21, and 22 and Subsection (a), Section 17 and Subsections (a), (e), and (f), Section 23.

Be it enacted by the Legislature of the State of Texas:

SECTION 1. Section 2, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 2. **DEFINITIONS.** In this Act, unless the context otherwise requires:

"(a) 'Board' means the Texas State Board of Examiners of Psychologists provided for by this Act.

"(b) A person represents himself to be a 'psychologist' within the meaning of this Act when he holds himself out to the public by any title or description of services incorporating the words 'psychological,' 'psychologists,' or 'psychology,' or ~~offers to render or~~ renders or offers to render psychological services to individuals, groups, organizations ~~(corporations)~~, or the public ~~[for compensation].~~

"(c) The term 'psychological services,' means acts or behaviors coming within the purview of the practice of psychology. *The practice of psychology is an offering to the public or rendering to individuals or groups any service, including computerized procedures, that involves but is not restricted to the application of established principles, methods, and procedures of describing, explaining, and ameliorating behavior. The practice of psychology addresses normal behavior and the evaluation, prevention, and remediation of psychological, emotional, mental, interpersonal, learning, and behavioral disorders of individuals and groups, as well as the psychological concomitants of medical problems, organizational structures, stress, and health. The practice of psychology is based on a systematic body of knowledge and principles acquired in an organized*

program of graduate study and on the standards of ethics established by the profession [including, but not limited to, the application of psychological principles to the evaluation and remediation of learning, emotional, interpersonal, and behavioral disorders].”

SECTION 2. Section 7, Psychologists’ Certification and Licensing Act (Article 4512c, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 7. ORGANIZATION AND MEETINGS OF THE BOARD. The Board shall hold a regular annual meeting at which it shall select from its members a *chairperson and a vice-chairperson* [~~Chairman and a Vice-Chairman~~]. Other regular meetings shall be held at such times as the rules of the Board may provide but not less than two times a year. Special meetings may be held at such times as may be deemed necessary or advisable by the Board or a majority of its members. Reasonable notice of all meetings shall be given in the manner prescribed by the rules of the Board. A quorum of the Board shall consist of a majority of its members. The *executive director* [~~Secretary~~] of the Board shall be *employed* [~~appointed~~] by the Board and shall hold *that position* [~~office~~] at the pleasure of the Board. [~~The Secretary may or may not be a member of the Board.~~] The Board may employ such other persons as it deems necessary or desirable, *including investigators, lawyers, consultants, and administrative staff*, to carry out the provisions of this Act. The Board shall adopt and have an official seal.”

SECTION 3. Section 8, Psychologists’ Certification and Licensing Act, as amended (Article 4512c, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 8. POWERS AND DUTIES OF THE BOARD. (a) In addition to the powers and duties granted the Board by other provisions of this Act, the Board may make all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it. The Board shall adopt and publish a Code of Ethics. *The Board may not adopt rules that govern the activities, services, or training of a person who is exempted under Section 22 of this Act. The Board may not adopt rules relating to the administration of an agency that is not subject to this Act, but may cooperate with those agencies in formulating voluntary guidelines to be observed in the training, activities, and supervision of persons who perform psychological services.*

“(b) The Board may certify *the specialty of* [~~specialties within the field of psychological services and may employ consultants when necessary for the implementation of this Act. The Board shall adopt rules applicable to the certification of specialties and to the employment of consultants. Specialty certifications by the Board may include certifications for clinical psychologists, counseling psychologists, industrial psychologists, school psychologists, and psychologists designated as~~] *health service provider* [~~providers~~].

“(c) The Board shall prepare information of consumer interest describing the regulatory functions of the Board and describing the Board’s procedures by which consumer complaints are filed with and resolved by the Board. The Board shall make information available to the general public and appropriate state agencies.

“(d) Each written contract for services in this state of a licensed or certified psychologist must contain the name, mailing address, and telephone number of the Board.

“(e) There shall at all times be prominently displayed in the place of business of each licensee regulated under this Act a sign containing the name, mailing address, and telephone number of the Board and a statement informing consumers that complaints against licensees can be directed to the Board.

“(f) The Board shall keep an information file about each complaint filed with the Board relating to a licensee.

“(g) If a written complaint is filed with the Board relating to a licensee, the Board at least as frequently as quarterly and until final disposition of the complaint shall notify the parties to the complaint of the status of the complaint unless the notification would jeopardize an undercover investigation.

“(h) The Board may not adopt rules restricting competitive bidding or advertising by a person regulated by the Board except to prohibit false, misleading, or deceptive practices by the person. The Board may not include in its rules to prohibit false, misleading, or deceptive practices by a person regulated by the Board a rule that:

“(1) restricts the person’s use of any medium for advertising;

“(2) restricts the person’s personal appearance or use of his personal voice in an advertisement;

“(3) relates to the size or duration of an advertisement by the person; or

“(4) restricts the person’s advertisement under a trade name.

“(i) *The Board may order corrective advertising if a psychologist, individually or under an assumed name, engages in false, misleading, or deceptive advertising.*

"(j) [(h)] The Board may recognize, prepare, or administer continuing education programs for persons regulated by the Board under this Act. Participation in the programs is voluntary.

"(k) [(h)] The Board shall develop an intraagency career ladder program, one part of which shall be the intraagency posting of each job opening with the Board in a nonentry level position. The intraagency posting shall be made at least 10 days before any public posting is made.

"(l) [(h)] The Board shall develop a system of annual performance evaluations of the Board's employees based on measurable job tasks. Any merit pay authorized by the Board shall be based on the system established under this subsection.

"(m) [(h)] The Board is subject to the open meetings law, Chapter 271, Acts of the 60th Legislature, Regular Session, 1967, as amended (Article 6252-17, Vernon's Texas Civil Statutes), and the Administrative Procedure and Texas Register Act, as amended (Article 6252-13a, Vernon's Texas Civil Statutes)."

SECTION 4. Section 9, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 9. RECEIPTS AND DISBURSEMENTS. The executive director [~~Secretary~~] of the Board shall receive the account for all monies derived under this Act. The executive director [~~He~~] shall pay these monies weekly to the State Treasurer who shall keep them in a separate fund to be known as the 'Psychologists Licensing Fund.' Monies may be paid out of this fund only by warrant drawn by the State Comptroller upon the State Treasurer, upon itemized voucher, approved by the chairperson [~~Chairman~~] of the Board or the executive director [~~and attested by the Secretary~~] of the Board. There shall be an annual audit of the Psychologists Licensing Fund by the Auditor of the State of Texas. The executive director [~~Secretary~~] of the Board shall give a surety bond for the faithful performance of his duties to the governor in the sum of Ten Thousand Dollars (\$10,000.00) or an amount recommended by the State Auditor. The premium for this bond shall be paid out of the Psychologists Licensing Fund. The Board may make expenditures from this fund for any purpose which is reasonably necessary to carry out the provisions of this Act."

SECTION 5. Section 11, Psychologists' Certification and Licensing Act, as amended (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 11. QUALIFICATION OF APPLICANT FOR EXAMINATION FOR CERTIFICATION. An applicant is qualified to take the examination for certification as a psychologist if:

"(1) the applicant [(a) if he] has received the doctoral degree based upon a program of studies whose content was primarily psychological or its substantial equivalent in both subject matter and extent of training from a regionally accredited educational institution,

"(2) the applicant [(b) if he] has attained the age of majority,

"(3) the applicant [(c) if he] is of good moral character,

"(4) [(d) if] in the judgment of the Board, the applicant [he] is physically and mentally competent to render psychological services with reasonable skill and safety [to his patients] and is afflicted with no disease or condition, either mental and physical, which would impair [his] competency to render psychological services, and

"(5) the applicant [(e) if he] has not been convicted of a felony or a crime involving moral turpitude, does not use [has not used] drugs or intoxicating liquors to an extent that affects the applicant's [would affect his] professional competency, has not been guilty of fraud or deceit in making the [his] application, or has not aided or abetted a person, not a licensed psychologist, in representing that person [himself] as a psychologist in this state."

SECTION 6. Section 16, Psychologists' Certification and Licensing Act, as amended (Article 4512c, Vernon's Texas Civil Statutes), is amended to read as follows:

"Section 16. FEES. The fees shall be fixed by the Board in amounts that are reasonable and necessary to cover the costs of administering this Act. [not to exceed:

1. Certification application:	
a. Doctoral level	\$105
b. Master's level	90
2. Examination	120
3. Jurisprudence examination	20
4. Licensure application	75
5. Certification renewal:	
a. Doctoral level	25
b. Master's level	25
6. License renewal	70
7. Health Service Provider application	55
8. Health Service Provider renewal	10

[~~0. Inactive status~~

10]

The Board shall not maintain unnecessary fund balances, and fee amount shall be set in accordance with this requirement.”

SECTION 7. Subsection (a), Section 17, Psychologists’ Certification and Licensing Act (Article 4512c, Vernon’s Texas Civil Statutes), is amended to read as follows:

“(a) The Board shall issue a certificate to each person whom it certifies and a license to those persons licensed. The certificate or license shall show the full name of the psychologist [~~and his address~~] and shall bear a serial number. The certificate or license shall be signed by the *chairperson* [~~Chairman~~] and the *executive director* [~~Secretary~~] of the Board under the seal of the Board.”

SECTION 8. Section 21, Psychologists’ Certification and Licensing Act, as amended (Article 4512c, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 21. LICENSING. (a) Any person who offers psychological services as defined herein for compensation, must apply to the Board and upon payment of a fee shall be granted a license by the Board. No person may be licensed unless:

“(1) *the person* [~~he~~] is certified as a psychologist under the authority of this Act; and

“(2) *the person* [~~he~~] has had at least two years of supervised [~~years~~] experience in the field of psychological services, *one year of which may be part of the doctoral program and at least one year of which was after the person’s doctoral degree was conferred* [~~; and one of which was under the supervision of a licensed psychologist~~].

“(b) *For the purposes of Subdivision (2) of Subsection (a) of this section, experience is supervised only if it is supervised by a licensed psychologist in the manner provided by the Board’s supervision guidelines.*”

SECTION 9. Section 22, Psychologists’ Certification and Licensing Act, as amended (Article 4512c, Vernon’s Texas Civil Statutes), is amended to read as follows:

“Section 22. EXEMPTIONS. Nothing in this Act shall be construed to apply to:

“(a) the activities, services and use of official title on the part of a person employed as a psychologist by any: (1) governmental agency, (2) public school district, or (3) regionally accredited institution of higher education [~~or any hospital licensed by the Texas State Department of Health, including medical clinics associated with such hospitals and are organized as an unincorporated association,~~] provided such employee is performing those duties for which he is employed by such agency, district, or institution [~~; or clinic~~] and within the confines of such agency, district, or institution [~~; or clinic~~] insofar as such activities and services are a part of the duties of his office or position as a psychologist with such agency, district, or institution [~~; or clinic~~]; except that persons employed as psychologists who offer or provide psychological services to the public (other than lecture services) for a fee, monetary or otherwise, over and above the salary that they receive for the performance of their regular duties, and/or persons employed as psychologists by organizations that sell psychological services to the public (other than lecture services) for a fee, monetary or otherwise must be licensed under the provisions of this Act;

“(b) the activities and services of a student, intern or resident in psychology, pursuing a course of study in preparation for the profession of psychology under qualified supervision in recognized training institutions or facilities, if these activities and services constitute a part of his supervised course of study, provided that such an individual is designated by a title such as ‘psychological intern,’ ‘psychological trainee,’ or others clearly indicating such training status;

“(c) the activities and services of members of other professional groups licensed, certified, or registered by this state, Christian Scientist practitioners who are duly recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal, or duly ordained religions doing work of a psychological nature consistent with their training and consistent with any code of ethics of their respective professions, provided that they do not represent themselves by any title or in any manner prohibited by this Act;

“(d) *persons, other than psychologists licensed or certified under this Act, who hold themselves out to the public as marriage and family therapists or counselors and who provide counseling exclusively related to marriage and family concerns and who hold a master’s or doctoral degree in the area of marriage and family therapy from a college or university accredited under a system utilized by the Texas College Coordinating Board and who abide by a code of ethics recognized by their profession.*”

SECTION 10. Subsections (a), (e), and (f), Section 23, Psychologists’ Certification and Licensing Act, as amended (Article 4512c, Vernon’s Texas Civil Statutes), are amended to read as follows:

"(a) The Texas State Board of Examiners of Psychologists shall have the right to cancel, revoke, suspend, or refuse to renew the license or certification of any psychologist or the certificate of any psychological associate or reprimand any psychologist upon proof that the psychologist:

"(1) has been convicted of a felony or of a violation of the law involving moral turpitude by any court; the conviction of a felony shall be the conviction of any offense which if committed within this state would constitute a felony under the laws of this state; or

"(2) uses ~~used~~ drugs or intoxicating liquors to an extent that affects his professional competency; or

"(3) has been guilty of fraud or deceit in connection with his services rendered as a psychologist; or

"(4) has aided or abetted a person, not a licensed psychologist, in representing himself as a psychologist within this state; or

"(5) has been guilty of unprofessional conduct as defined by the rules established by the Board; or

"(6) for any cause for which the Board shall be authorized to take that action by another section of this Act.

~~"[The Board shall have the right to order corrective advertising when a psychologist, individually or under his assumed name, engages in false, misleading, or deceptive advertising.]"~~

"(c) The Board shall have the right and may, upon majority vote, rule that the order revoking, cancelling, or suspending the *psychologist's* ~~[psychologists']~~ license or certification be probated so long as the probationer conforms to such orders and rules as the Board may set out as the terms of probation. The Board, at the time of probation, shall set out the period of time which shall constitute the probationary period. Provided further, that the Board may at any time while the probationer remains on probation hold a hearing, and upon majority vote, rescind the probation and enforce the Board's original action in revoking, cancelling, or suspending the *psychologist's* ~~[psychologists']~~ license or certification, the said hearing to rescind the probation shall be called by the *chairperson* ~~[Chairman]~~ of the Texas State Board of Examiners of Psychologists who shall cause to be issued a notice setting a time and place for the hearing and containing the charges or complaints against the probationer, said notice to be served on the probationer or *the probationer's* ~~[his]~~ counsel at least ten (10) days prior to the time set for the hearing. When personal service is impossible, or cannot be effected, the same provisions for service in lieu of personal service as heretofore set out in this Act shall apply. At said hearing the respondent shall have the right to appear either personally or by counsel or both, to produce witnesses or evidence in *the* ~~[his]~~ behalf of *the respondent*, to cross-examine witnesses, and to have subpoenas issued by the Board. The Board shall thereupon determine the charges upon their merits. All charges, complaints, notices, orders, records, and publications authorized or required by the terms of this Act shall be privileged. The order revoking or rescinding the probation shall not be subject to review or appeal.

"(f) On application, the Board may *reissue a certificate* ~~[re certify the applicant]~~ or ~~[reissue]~~ a license to a person whose *certificate* or license has been cancelled or ~~;~~ revoked ~~;~~ or ~~suspended~~. *Such an application* ~~[However, in the case of cancellation or revocation, the application]~~ may not be made before *the expiration of one year after the date of the cancellation or revocation or a period determined by* ~~[and must be made in the manner and form as]~~ the Board ~~[may require]~~."

SECTION 11. (a) Except as provided by Subsection (b) of this section, this Act takes effect September 1, 1985.

(b) The amendment by Section 8 of this Act of Section 21, Psychologists' Certification and Licensing Act (Article 4512c, Vernon's Texas Civil Statutes), takes effect September 1, 1987.

SECTION 12. The importance of this legislation and the crowded condition of the calendars in both houses create an emergency and an imperative public necessity that the constitutional rule requiring bills to be read on three several days in each house be suspended, and this rule is hereby suspended.

Passed the Senate on May 2, 1985, by the following vote: Yeas 31, Nays 0; May 20, 1985, Senate refused to concur in House amendments and requested appointment of Conference Committee; May 21, 1985, House granted request of the Senate; May 26, 1985, Senate adopted Conference Committee Report by the following vote: Yeas 31, Nays 0; passed the House, with amendments, on May 17, 1985, by the following vote: Yeas 134, Nays 0, one present not voting; May 21, 1985, House granted request of the Senate for appointment of Conference Committee; May 26, 1985, House adopted Conference Committee Report by a non-record vote.

Approved: June 15, 1985

Effective: September 1, 1985, except for Section 8, which is effective September 1, 1987.