

**Updated:  
09/06/2019**



*Texas State Board of  
Examiners of Psychologists*  
***Act and Rules***

## **NEW, AMENDED, REPEALED RULES**

The following is a list of the rules which have been added, amended, or repealed since the last update to these rules.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 – August 2019**

- 461.7. License Statuses *(repeal)*
- 461.7. License Statuses *(new)*
- 461.11. Professional Development *(amendment)*
- 461.16. Filing of False or Misleading Information with the Board *(amendment)*
- 461.18. Minimum Data Set Requirement for Online Renewals *(repeal)*
- 463.11. Licensed Psychologists *(amendment)*
- 471.1. Renewal of a License *(amendment)*
- 471.2. Renewal Forms *(repeal)*
- 471.3. Initial License Renewal Dates *(new)*
- 471.6. Renewal Terms Exclusive to Licensees on Active Military Duty *(amendment)*
- 473.1. Application Fees *(amendment)*
- 473.3. Annual Renewal Fees (Not Refundable) *(repeal)*
- 473.3. Biennial Renewal Fees (Not Refundable) *(new)*
- 473.4. Late Fees for Renewals (Not Refundable) *(repeal)*
- 473.4. Late Fees for Renewals *(new)*
- 473.5. Miscellaneous Fees (Not Refundable) *(amendment)*

### **Online Act and Rules of the Board – May 2019**

- 463.22. Reinstatement of a License *(new)*
- 465.6. Public Statements, Advertisements, and Specialty Titles *(amended)*
- 465.22. Psychological Records, Test Data and Test Materials *(amended)*
- 470.17. Motion for Rehearing *(amended)*
- 473.2. Examination Fees (Non-Refundable) *(amended)*

### **Online Act and Rules of the Board – February 2019**

- 463.9. Licensed Specialist in School Psychology *(amended)*
- 463.11. Licensed Psychologists *(amended)*

### **Online Act and Rules of the Board – November 2018**

- 461.10. License Required *(amended)*
- 461.11. Professional Development *(amended)*
- 463.27. Temporary License for Persons Licensed in Other States *(amended)*
- 463.28. Emergency Limited Temporary License *(new)*
- 465.1. Definitions *(amended)*
- 469.4. Complaint Investigation *(amended)*
- 469.5. Complaint Disposition *(amended)*
- 470.22. Schedule of Sanctions *(amended)*

### **Online Act and Rules of the Board – August 2018**

- 463.11. Licensed Psychologists (*amended*)
- 463.13. Requirements for Licensed Out-of-State Applicants (*repeal*)
- 465.15. Fees and Financial Arrangements (*amended*)
- 465.22. Psychological Records, Test Date and Test 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 21, Texas State Board of Examiners of Psychologists. To view rules that have been proposed but not finally adopted by the Board, access the following website:

<http://www/sos/state.tx.us/texreg/sos/index.html>.

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# **PSYCHOLOGISTS' LICENSING ACT**

## **SUBCHAPTER A GENERAL PROVISIONS**

**Sec. 501.001. SHORT TITLE.** This chapter may be cited as the Psychologists' Licensing Act.

**Sec. 501.002. DEFINITIONS.** In this chapter:

- (1) "Board" means the Texas State Board of Examiners of Psychologists.
- (2) "Licensed specialist in school psychology" means a person who holds a license to engage in the practice of psychology under Section 501.260.
- (3) "Provisional license holder" means a person who holds a license to engage in the practice of psychology under Section 501.253.
- (4) "Psychological associate" means a person who holds a license to engage in the practice of psychology issued under Section 501.259.
- (5) "Psychologist" means a person who holds a license to engage in the practice of psychology issued under Section 501.252.

**Sec. 501.003. PRACTICE OF PSYCHOLOGY.**

(a) In this chapter:

- (1) "Practice of psychology" means:
  - (A) the observation, description, diagnosis, evaluation, assessment, interpretation, or treatment of and intervention in human behavior by applying education, training, methods, and procedures for the purpose of:
    - (i) preventing, predicting, treating, remediating, or eliminating:
      - (a) symptomatic, maladaptive, or undesired behavior;
      - (b) emotional, interpersonal, learning, substance use, neuropsychological, cognitive, or behavioral disorders or disabilities, including those that accompany medical problems; or
      - (c) mental illness;
    - (ii) evaluating, assessing, or facilitating, by a license holder or a person who represents the person to the public by a title or description of services that includes the word "psychological," "psychologist," or "psychology," the enhancement

of individual, group, or organizational effectiveness, including evaluating, assessing, or facilitating:

- (a) personal effectiveness;
  - (b) adaptive behavior;
  - (c) interpersonal relationships;
  - (d) academic, vocational, and life adjustment;
  - (e) health; or
  - (f) individual, group, or organizational performance;
- (iii) providing psychological, neuropsychological, and psychoeducational evaluation, therapy, and remediation as well as counseling, psychoanalysis, psychotherapy, hypnosis, and biofeedback; or
  - (iv) consulting with others, including other mental health professionals, physicians, school personnel, or organizations within the scope of the provider's competency and training with respect to services provided for a specific individual; or
- (B) the supervision of an activity or service described by Paragraph (A).
- (2) "Psychological services" means acts or behaviors that are included within the purview of the practice of psychology.
- (b) A person is engaged in the practice of psychology if the person:
    - (1) when providing or offering to provide psychological services to another in a professional relationship, represents the person to the public by a title or description of services that includes the word "psychological," "psychologist," or "psychology";
    - (2) provides or offers to provide psychological services to individuals, groups, organizations, or the public in a professional relationship;
    - (3) is a psychologist or psychological associate employed as described by Section 501.004(a)(1) who offers or provides psychological services, other than lecture services, to the public for consideration separate from the salary that person receives for performing the person's regular duties; or
    - (4) is employed as a psychologist or psychological associate by an organization that sells psychological services, other than lecture services, to the public for consideration.
  - (c) A person is not engaged in the practice of psychology based solely on the person offering, regardless of whether the person is solicited, advice, counsel, or guidance addressing or affecting the mental, emotional, or behavioral health of another, if the person

does not represent that the person is licensed under this chapter or engaged in the delivery of psychological services and does not represent that the advice, counsel, or guidance is psychological in nature, and:

- (1) the advice, counsel, or guidance is not offered in the context of a professional relationship;
- (2) if the person is offering the advice, counsel, or guidance in connection with the person's occupation, the primary focus of the occupation is not the delivery of mental, emotional, or behavioral health care services; or
- (3) the advice, counsel, or guidance is offered through an organized or structured program or peer support service that is designed to support or assist a person with a self-identified goal of changing or improving certain aspects of the person's mental, emotional, or behavioral health.

**Sec. 501.004. APPLICABILITY.**

- (a) This chapter does not apply to:
  - (1) the activity or service of a person, or the use of an official title by the person, who is employed as a psychologist or psychological associate by a regionally accredited institution of higher education if the person performs duties the person is employed by the institution to perform within the confines of the institution;
  - (2) the activity or service of a student, intern, or resident in psychology if:
    - (A) the person is pursuing a course of study to prepare for the profession of psychology under qualified supervision in a recognized training institution or facility;
    - (B) the activity or service is part of the person's supervised course of study; and
    - (C) the person is designated as a "psychological intern," as a "psychological trainee," or by another title that clearly indicates the person's training status;
  - (3) the activity or service of a licensed professional, other than a person licensed under this chapter, if:
    - (A) the activity or service is permitted under the person's license; and
    - (B) the person does not represent that the person is a psychologist or describe the service provided by using the term "psychological";
  - (4) the activity or service of a recognized member of the clergy who is acting within the person's ministerial capabilities if the person does not:

- (A) represent that the person is a psychologist; or
- (B) describe the service provided by using the term "psychological";
- (5) the voluntary activity or service of a person employed by or working on behalf of a charitable nonprofit organization if the person does not:
  - (A) represent that the person is a psychologist; or
  - (B) describe the service provided by using the term "psychological"; or
- (6) the activity or service of a person who is employed by a governmental agency if the person:
  - (A) performs duties the person is employed by the agency to perform within the confines of the agency; and
  - (B) does not represent that the person is a psychologist.
- (b) For purposes of Subsection (a)(3), a licensed professional includes:
  - (1) a physician;
  - (2) an attorney;
  - (3) a registered nurse;
  - (4) a licensed vocational nurse;
  - (5) an occupational therapist;
  - (6) a licensed social worker;
  - (7) a licensed professional counselor;
  - (8) a career counselor;
  - (9) a licensed marriage and family therapist; and
  - (10) a licensed chemical dependency counselor.
- (c) This chapter does not authorize the practice of medicine as defined by the laws of this state.

**Sec. 501.005. APPLICATION OF SUNSET ACT.** The Texas State Board of Examiners of Psychologists is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and this chapter expires September 1, 2019.

## **SUBCHAPTER B. TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS**

**Sec. 501.051. BOARD MEMBERSHIP.**

- (a) The Texas State Board of Examiners of Psychologists consists of nine members appointed by the governor with the advice and consent of the senate as follows:



- (1) four psychologist members who have engaged in independent practice, teaching, or research in psychology for at least five years;
  - (2) two psychological associate members who have been licensed as psychological associates under this chapter for at least five years; and
  - (3) three members who represent the public.
- (a-1) One of the members appointed under Subsection (a)(1) or (a)(2) must practice as a licensed specialist in school psychology under Section 501.260.
- (b) To ensure adequate representation on the board of the diverse fields of psychology, the governor in making appointments under Subsection (a)(1) shall appoint:
- (1) at least two members who provide psychological services;
  - (2) at least one member who conducts research in the field of psychology; and
  - (3) at least one member who teaches as a member of the faculty of a psychological training institution.
- (c) Each member of the board must be a citizen of the United States.
- (d) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

**Sec. 501.052. 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 services;
- (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 regulated by the board or 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 regulated by the board or receiving funds from the board; or
  - (C) uses or receives a substantial amount of tangible goods, services, or funds from the board, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

**Sec. 501.053. 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 board and may not be a board 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 services; 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 or act as the general counsel to 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. 501.054. TERMS; VACANCY.**

- (a) Members of the board serve staggered six-year terms, with the terms of three members expiring October 31 of each odd-numbered year.
- (b) A member who is appointed for a term of less than six years may be reappointed to one successive full six-year term. A member who is appointed for a full six-year term may not be reappointed for the six years following the expiration of the member's term.
- (c) If a vacancy occurs during a member's term, the governor shall appoint a replacement to fill the unexpired term.

**Sec. 501.055. 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 Sections 501.051 and 501.052;
  - (2) does not maintain during service on the board the qualifications required by Sections 501.051 and 501.052;
  - (3) is ineligible for membership under Section 501.053;
  - (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 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 board 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 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 the attorney general that a potential ground for removal exists.

**Sec. 501.056. PER DIEM; REIMBURSEMENT.**

- (a) Each board member is entitled to a per diem set by legislative appropriation for each day the member engages in board business.
- (b) A member may not receive reimbursement for travel expenses, including expenses for meals and lodging. A member is entitled to reimbursement for transportation expenses as provided by the General Appropriations Act.
- (c) All per diem and reimbursement for expenses authorized by this section shall be paid only from fees collected under this chapter.

**Sec. 501.057. OFFICERS; MEETINGS.**

- (a) The governor shall designate a member of the board as the presiding officer of the board to serve in that capacity at the pleasure of the governor. The board shall hold an annual meeting during which the board shall select from its members an assistant presiding officer.
- (b) The board may hold other regular meetings as provided by board rule. The board shall hold meetings at least twice each year. Special meetings may be called as necessary or by a majority of the board members.
- (c) The board shall give reasonable notice of all meetings in the manner provided by board rule.

**Sec. 501.058. OATH OF OFFICE.** Before entering office, a board member must file with the secretary of state the constitutional oath taken by the person.

**Sec. 501.059. TRAINING PROGRAM FOR MEMBERS.**

- (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 of the board until the person completes a training program that complies with this section.
- (b) The training program must provide the person with information regarding:
  - (1) this chapter and the programs, functions, rules, and budget of the board;
  - (2) the results of the most recent formal audit of the board;
  - (3) the requirements of laws relating to open meetings, public information, administrative procedure, and conflicts of interest; and
  - (4) 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.

**SUBCHAPTER C. EXECUTIVE DIRECTOR AND OTHER BOARD PERSONNEL**

**Sec. 501.101. EXECUTIVE DIRECTOR.** The board shall employ an executive director, who holds that position at the pleasure of the board.

**Sec. 501.102. PERSONNEL.** The board may employ persons, including investigators, attorneys, consultants, and administrative staff, as necessary or desirable to administer this chapter.

**Sec. 501.103. DIVISION OF RESPONSIBILITIES.** The board shall develop and implement policies that clearly separate the policymaking responsibilities of the board and the management responsibilities of the executive director and the staff of the board.

**Sec. 501.104. 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 postings 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. All merit pay for board employees must be based on the system established under this subsection.

**Sec. 501.105. EQUAL EMPLOYMENT 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 employment opportunity program under which all personnel transactions are made without regard to race, color, disability, sex, religion, age, or national origin. The policy statement must include:
  - (1) personnel policies, including policies relating to recruitment, evaluation, selection, application, training, and promotion of personnel, that are in compliance with Chapter 21, Labor Code;
  - (2) a comprehensive analysis of the board workforce that meets federal and state guidelines;
  - (3) procedures by which a determination can be made of significant underuse in the board 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 underuse.
- (b) A policy statement prepared under Subsection (a) must:
  - (1) cover an annual period;
  - (2) be updated annually;
  - (3) be reviewed by the Commission on Human Rights 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 the information received under Subsection (b). The report may be made separately or as part of other biennial reports to the legislature.

**SUBCHAPTER D. BOARD POWERS AND DUTIES**

**Sec. 501.151. GENERAL POWERS AND DUTIES.**

- (a) The board may adopt rules necessary to perform its duties and regulate its proceedings.
- (b) The board shall adopt an official seal.
- (c) The board shall adopt and publish a code of ethics.
- (d) The board may certify the specialty of health service providers.

**Sec. 501.152. FEES.**

- (a) The board by rule shall set fees in amounts reasonable and necessary to cover the costs of administering this chapter.
- (b) The board may not set a fee that existed on September 1, 1993, for an amount less than the amount of that fee on that date.
- (c) Funds to administer this chapter may be paid only from fees collected under this chapter.

**Sec. 501.154. ANNUAL LISTING.**

- (a) The board shall publish annually a list of all psychologists licensed under this chapter. The list shall be provided in both alphabetical and geographical arrangements.
- (b) The list must contain the name and address of each psychologist and other information that the board requires.
- (c) The board shall:
  - (1) mail a copy of the list to each person licensed under this chapter; and
  - (2) furnish copies to the public on request.

**Sec. 501.155. VOLUNTARY GUIDELINES.**

- (a) The board may cooperate with an agency that is not subject to this chapter to formulate voluntary guidelines to be observed in the training, activities, and supervision of persons who perform psychological services.
- (b) Except as provided by Subsection (a), the board may not adopt a rule that relates to the administration of an agency that is not subject to this chapter.

**Sec. 501.156. RULES RESTRICTING ADVERTISING OR COMPETITIVE BIDDING.**

- (a) The board may not adopt rules restricting advertising or competitive bidding by a person regulated by the board except to prohibit false, misleading, or deceptive practices by the person.
- (b) The board may not include in 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 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. 501.157. BOARD DUTIES REGARDING COMPLAINTS.**

- (a) The board by rule shall:

- (1) adopt a standardized form for filing complaints with the board; and
  - (2) prescribe information to be provided when a person files a complaint with the board.
- (b) The board shall provide reasonable assistance to a person who wishes to file a complaint with the board.

**Sec. 501.158. COMPETENCY REQUIREMENTS.**

- (a) This section applies to a person who is:
- (1) applying to take the provisional license examination;
  - (2) applying for a license or license renewal;
  - (3) currently licensed by the board; or
  - (4) otherwise providing psychological services under a license approved by the board.
- (b) On a determination by the board based on the board's reasonable belief that a person is not physically and 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 board may request the person to submit to:
- (1) a physical examination by a physician approved by the board; or
  - (2) a mental examination by a physician or psychologist approved by the board.
- (c) The board shall issue an order requiring an applicant or person seeking renewal of a provisional license who refuses to submit to an examination under this section to show cause for the person's refusal at a hearing on the order scheduled for not later than the 30th day after the date notice is served on the person. The board shall provide notice under this section by personal service or by registered mail, return receipt requested.
- (d) At the hearing, the person may appear in person and by counsel and present evidence to justify the person's refusal to submit to examination. After the hearing, the board shall issue an order requiring the person to submit to examination under this section or withdrawing the request for the examination.
- (e) Unless the request is withdrawn, a person who refuses to submit to the physical or mental examination may not take the provisional license examination or renew the person's license, as appropriate.
- (f) An appeal from the board's order under this section is governed by Chapter 2001, Government Code.

**Sec. 501.160. USE OF TECHNOLOGY.** The board shall implement a policy requiring the use of appropriate technological solutions to improve the board's

ability to perform its functions. The policy must ensure that the public is able to interact with the board on the Internet.

**Sec. 501.161. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION.**

- (a) The board shall develop and implement a policy to encourage the use of:
  - (1) negotiated rulemaking procedures under Chapter 2008, Government Code, for the adoption of board 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 board's jurisdiction.
- (b) The board'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 board shall designate a trained person to:
  - (1) coordinate the implementation of the policy adopted under Subsection (a);
  - (2) serve as a resource for any training needed to implement the procedures for negotiated rulemaking or alternative dispute resolution; and
  - (3) collect data concerning the effectiveness of those procedures, as implemented by the board.

**Sec. 501.162. DEVELOPMENT OF PROPOSED RULES.**

- (a) This section applies to the process by which the board develops proposed rules before the proposed rules are published in the Texas Register and before the board complies with the rulemaking requirements of the administrative procedure law, Chapter 2001, Government Code. This section does not affect the duty of the board to comply with the rulemaking requirements of that law.
- (b) The board shall establish methods under which the board, to the extent appropriate, will seek input early in the rule development process from the public and from persons who will be most affected by a proposed rule. Methods shall include identifying persons who will be most affected and soliciting, at a minimum, the advice and opinions of those persons.
- (c) Methods may include negotiated rulemaking, informal conferences, advisory committees, and any other appropriate method.
- (d) A rule adopted by the board may not be challenged on the grounds that the board did not comply with this section. If the board was unable to solicit a significant amount of advice and opinion from the public or from affected persons early in the rule development



process, the board shall state in writing the reasons why the board was unable to do so.

## **SUBCHAPTER E. PUBLIC INTEREST INFORMATION AND COMPLAINT PROCEDURES**

### **Sec. 501.201. PUBLIC INTEREST INFORMATION.**

- (a) The board shall prepare information of public interest describing the functions of the board.
- (b) The board shall make the information available to the public and appropriate state agencies.

### **Sec. 501.202. COMPLAINTS.**

- (a) The board by rule shall establish methods by which consumers and service recipients are notified of the name, mailing address, and telephone number of the board for the purpose of directing complaints to the board. The board may provide for that notice:
  - (1) on each registration form, application, or written contract for services of a person regulated by the board;
  - (2) on a sign prominently displayed in the place of business of each person regulated by the board; or
  - (3) in a bill for services provided by a person regulated by the board.
- (b) The board 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 health professional.

### **Sec. 501.203. INFORMATION ABOUT COMPLAINT ACTIONS.**

- (a) The board shall maintain a system to promptly and efficiently act on complaints filed with the board. The board shall maintain information about parties to a complaint, the subject matter of the complaint, a summary of the results of the review or investigation of the complaint, and the disposition of the complaint.
- (b) The board shall make information available describing its procedures for complaint investigation and resolution.
- (c) The board shall periodically notify the complaint parties of the status of the complaint until final disposition.
- (d) The board shall analyze complaints filed with the board to identify any trends or issues related to certain violations, including:
  - (1) the reason for each complaint;
  - (2) how each complaint was resolved; and
  - (3) the subject matter of each complaint that was not within the jurisdiction of the board and how the board responded to the complaint.

**Sec. 501.204. GENERAL RULES REGARDING COMPLAINT INVESTIGATION AND DISPOSITION.**

- (a) The board shall adopt rules concerning the investigation of a complaint filed with the board. The rules adopted under this subsection must:
  - (1) distinguish between categories of complaints;
  - (2) ensure that a complaint is not dismissed without appropriate consideration;
  - (3) require that the board 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 dismissed complaint;
  - (4) ensure that the person who filed the 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 the procedures for the board to obtain the services of a private investigator.
- (b) The board shall:
  - (1) dispose of each complaint in a timely manner; and
  - (2) establish a schedule for conducting each phase of a complaint that is under the control of the board not later than the 30th day after the date the complaint is received by the board.
- (c) Each party to the complaint shall be notified of the projected time requirements for pursuing the complaint and notified of any change in the schedule established under Subsection (b)(2) not later than the seventh day after the date the change is made.
- (d) The executive director shall notify the board of a complaint that is not resolved within the time prescribed by the board for resolving complaints so that the board may take necessary action on the complaint.
- (e) The board 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. 501.205. CONFIDENTIALITY OF COMPLAINT INFORMATION.**

- (a) Except as provided by Subsection (b), a complaint and investigation concerning a license holder and all information and materials compiled by the board 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 board in connection with the complaint may be disclosed to:
  - (1) the board and board 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) a law enforcement agency if required by law;
  - (4) 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
  - (5) a legislative committee or committee staff directed to make an inquiry regarding state hospitals or schools, by either house of the legislature, the presiding officer of either house of the legislature, or the chairman of the legislative committee if the information or records that identify a patient or client are not released for any purpose unless the patient consents and the records are created by the state hospital or school or its employees.
- (c) Unless good cause for delay is shown to the presiding officer at the hearing, the board shall provide the license holder with access to all information that the board intends to offer into evidence at the hearing not later than the 30th day after the date the board 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 board shall protect the identity of any patient whose records are examined in connection with a disciplinary investigation or proceeding against a license holder, except:
  - (1) a patient who initiates the disciplinary action; or
  - (2) a patient who has submitted a written consent to release the records.

**Sec. 501.206. PUBLIC PARTICIPATION.**

- (a) The board shall develop and implement policies that provide the public with a reasonable opportunity to appear before the board and to speak on any issue under the board's jurisdiction.
- (b) The board shall prepare and maintain a written plan that describes how a person who does not speak English may be provided reasonable access to the board's programs.

**Sec. 501.207. SUBPOENAS.**

- (a) In an investigation of a complaint filed with the board, the executive director or presiding officer of the board 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 board, 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 board 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 board shall pay for photocopies subpoenaed under this section a reasonable fee in an amount not to exceed the amount the board 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 board in connection with the investigation of a complaint may be disclosed only as provided by Section 501.205.

**SUBCHAPTER F. GENERAL LICENSE REQUIREMENTS**

**Sec. 501.251. LICENSE REQUIRED.** A person may not engage in or represent that the person is engaged in the practice of psychology unless the person is licensed under this chapter or exempt under Section 501.004.

**Sec. 501.252. PSYCHOLOGIST LICENSE APPLICATION.**

- (a) To be licensed under this chapter, a person must apply to the board for a license. The board shall issue a license to an applicant who:
  - (1) complies with this section; and
  - (2) pays the fee set by the board.
- (b) A person may not be licensed as a psychologist unless the person:
  - (1) is provisionally licensed as a psychologist under this chapter; and
  - (2) has had at least two years of supervised experience in the field of psychological services, one year of which may be as part of the doctoral program and at least one year of which began after the date the person's doctoral degree was conferred by an institution of higher education.

- (c) For purposes of Subsection (b)(2), experience is supervised only if the experience is supervised by a psychologist in the manner provided by the board's supervision guidelines.
- (d) To determine the acceptability of an applicant's professional experience, the board may require documentary evidence of the quality, scope, and nature of the applicant's experience.

**Sec. 501.253. PROVISIONAL LICENSE.**

- (a) The board shall issue a provisional license to an applicant who has:
  - (1) passed the examinations prescribed by the board;
  - (2) satisfied the preliminary requirements of Sections 501.254 and 501.255; and
  - (3) paid the fee for a provisional license.
- (b) A provisional license holder is entitled to practice psychology under the supervision of a psychologist to meet the requirements for issuance of a license under Section 501.252. A provisional license holder who is licensed in another state to independently practice psychology and is in good standing in that state and who seeks a license in this state is entitled to practice psychology without the supervision of a psychologist during the time that the board is processing the person's application for a license.
- (c) The board shall adopt rules that apply to provisional license holders identifying:
  - (1) the activities that holders may engage in; and
  - (2) services that may be provided by holders.
- (d) The board may refuse to renew the provisional license of a person who does not meet the requirements prescribed by Section 501.255.
- (e) The board may not restrict the issuance of a license or provisional license to an applicant who is licensed in another state to independently practice psychology and is in good standing in that state based on the number of years the applicant has been licensed in good standing in that state.
- (f) If an applicant who is licensed in another state to independently practice psychology and is in good standing in that state presents credentials from a national accreditation organization to the board and the board determines that the requirements for obtaining those credentials from that organization are sufficient to protect the public, the board may issue a provisional license to the applicant. An applicant who obtains a provisional license under this subsection must have passed the examination described by Section 501.256(b)(2).

**Sec. 501.254. PROVISIONAL LICENSE APPLICATION.**

- (a) An applicant for examination for a provisional license must:
  - (1) apply on forms prescribed by the board; and
  - (2) submit the required fee with the application.
- (b) The board may require that the applicant verify the application.

**Sec. 501.255. PROVISIONAL LICENSE EXAMINATION QUALIFICATIONS.**

- (a) An applicant may take an examination for a provisional license if the applicant:
  - (1) has received:
    - (A) a doctoral degree in psychology from a regionally accredited educational institution conferred on or after January 1, 1979; or
    - (B) a doctoral degree in psychology, or the substantial equivalent of a doctoral degree in psychology in both subject matter and extent of training, from a regionally accredited educational institution conferred before January 1, 1979;
  - (2) has attained the age of majority;
  - (3) has good moral character;
  - (4) is physically and mentally competent to provide psychological services with reasonable skill and safety, as determined by the board;
  - (5) is not afflicted with a mental or physical disease or condition that would impair the applicant's competency to provide psychological services;
  - (6) has not been convicted of a crime involving moral turpitude or a felony;
  - (7) does not use drugs or alcohol to an extent that affects the applicant's professional competency;
  - (8) has not engaged in fraud or deceit in making the application; and
  - (9) except as provided by Section 501.263, has not:
    - (A) aided or abetted the practice of psychology by a person not licensed under this chapter in representing that the person is licensed under this chapter;
    - (B) represented that the applicant is licensed under this chapter to practice psychology when the applicant is not licensed; or
    - (C) practiced psychology in this state without a license under this chapter or without being exempt under this chapter.
- (b) In determining under Subsection (a)(1)(B) whether a degree is substantially equivalent to a doctoral degree in psychology, the board shall consider whether, at the time the degree was conferred,

the doctoral program met the prevailing standards for training in the area of psychology, including standards for training in clinical, school, and industrial counseling.

**Sec. 501.256. EXAMINATIONS.**

- (a) The board shall administer to qualified applicants at least annually the oral and written examination required by board rules. The board shall have the written portion of the examination, if any, validated by an independent testing professional.
- (b) The board shall determine the subject and scope of the examinations and establish appropriate fees for examinations administered. The examination must test the applicant's knowledge of:
  - (1) the discipline and profession of psychology; and
  - (2) the laws and rules governing the profession of psychology in this state.
- (c) The board may waive the discipline and professional segment of the examination requirement for an applicant who:
  - (1) is a specialist of the American Board of Professional Psychology; or
  - (2) in the board's judgment, has demonstrated competence in the areas covered by the examination.
- (d) The contents of the examination described by Subsection (b)(2) are the jurisprudence examination. The board shall administer and each applicant must pass the jurisprudence examination before the board may issue a provisional license.
- (e) If requested in writing by a person who fails an examination administered under this chapter, the board shall provide to the person an analysis of the person's performance on the examination.
- (f) On the oral examination administered under this section the board may only assess knowledge of psychological principles and techniques, applicable laws and regulations, and ethical principles. The board may not assess personal characteristics through the oral examination.
- (g) For purposes of the oral examination, the board shall by rule clearly define the standards used by the board to determine whether a person has demonstrated sufficient entry-level knowledge of the practice of psychology to have passed the examination.

**Sec. 501.2561. EVALUATION OF ORAL EXAMINATION.**

- (a) The board by rule shall establish a work group to evaluate the oral examination for the purpose of improving the consistency of the administration and the objectivity of the examination. The work

group must include persons interested in or affected by the regulation of the practice of psychology under this chapter, including faculty members of college or university psychology departments and licensees with varying levels of experience. The work group shall:

- (1) review audiotapes of passed and failed examinations;
  - (2) review analyses of the performance of persons who failed the examination provided under Section 501.256(e);
  - (3) assess scoring criteria and clinical scenarios used in the administration of the examination;
  - (4) recommend improvements to standardize the administration of the examination; and
  - (5) conduct other appropriate tasks.
- (b) Members of the board may not participate in the evaluation of the oral examination but may otherwise participate in the work group.
- (c) The work group shall report biennially to the board the group's recommendations for improving the consistency of the administration and the objectivity of the oral examination. The board shall modify the oral examination, as necessary, based on the work group's recommendations before the next administration of the oral examination.

**Sec. 501.257. REEXAMINATION.** An applicant who fails an examination may be reexamined at intervals specified by the board on payment by the applicant of an examination fee that is equal to the amount of the fee charged to take the examination the applicant failed.

**Sec. 501.258. NOTIFICATION OF EXAMINATION RESULTS.**

- (a) Not later than the 30th day after the date an examination is administered, the board shall notify each examinee of the results of the examination. If an examination is graded or reviewed by a national testing service, the board shall notify examinees of the results of the examination not later than the 14th day after the date the board receives the results from the testing service.
- (b) If the notice of the examination results will be delayed for longer than the 90th day after the examination date, the board shall notify the examinee of the reason for the delay before the 90th day.

**Sec. 501.259. LICENSING OF PSYCHOLOGICAL ASSOCIATE.**

- (a) The board shall set standards for the issuance of licenses to psychological personnel who hold a master's degree from an accredited university or college in a program that is primarily psychological in nature.
- (b) The board shall designate a person who holds a license authorized by this section by a title that includes the adjective "psychological"



followed by a noun such as "associate," "assistant," "examiner," or "technician."

**Sec. 501.260. LICENSED SPECIALIST IN SCHOOL PSYCHOLOGY.**

- (a) The board by rule shall issue a license to a licensed specialist in school psychology. A license issued under this section constitutes the appropriate credential for a person who provides psychological services as required by Section 21.003(b), Education Code.
- (b) The board shall set the standards to qualify for a license under this section. The standards must include:
  - (1) satisfaction of minimum recognized graduate degree requirements;
  - (2) completion of graduate course work at a regionally accredited institution of higher education in:
    - (A) psychological foundations;
    - (B) educational foundations;
    - (C) interventions;
    - (D) assessments; and
    - (E) professional issues and ethics;
  - (3) completion of at least 1,200 hours of supervised experience;
  - (4) receipt of a passing score on a nationally recognized qualifying examination determined to be appropriate by the board and on any other examination required by the board; and
  - (5) satisfaction of the requirements, other than the degree requirements, for an applicant to take an examination for a provisional license.
- (c) The rules of practice for a licensed specialist in school psychology must comply with nationally recognized standards for the practice of school psychology.

**Sec. 501.261. FORM OF LICENSE.**

- (a) A license issued under this chapter must include the full name of the license holder and a unique number assigned to that license.
- (b) The presiding officer and executive director of the board shall sign the license under the seal of the board.

**Sec. 501.262. RECIPROCAL LICENSE.** The board may enter into and implement agreements with other jurisdictions for the issuance of a license by reciprocity if the other jurisdiction's requirements for licensing, certification, or registration are substantially equal to the requirements of this chapter.

**Sec. 501.263. TEMPORARY LICENSE.**

- (a) The board may issue a temporary license to an applicant seeking to practice in this state for a limited time and limited purpose if the applicant:
  - (1) pays the required application fee;
  - (2) submits an application to the board in the form prescribed by the board;
  - (3) is licensed, certified, or registered as a psychologist or psychological associate by another state having requirements substantially equal to those prescribed by this chapter;
  - (4) is in good standing with the regulatory agency of the jurisdiction in which the person is licensed, certified, or registered;
  - (5) is supervised by a person licensed by the board under this chapter with whom the temporary license holder may consult during the time the person holds a temporary license; and
  - (6) has passed an examination recognized by the board as equivalent to the examination required by the board for a permanent license under this chapter.
- (b) A temporary license is valid only for the period specified by the board and for the limited purpose approved by the board.
- (c) The board may adopt rules to issue a temporary license to a person who holds a license or the equivalent from another country.
- (d) A temporary license issued under this section is not a vested property right.
- (e) A person holding a temporary license issued under this chapter shall display a sign indicating that the license is temporary. The sign must be approved by the board and displayed in every room in which the person provides psychological services.

**Sec. 501.264. INACTIVE STATUS.**

- (a) A psychologist may place the psychologist's license on inactive status by applying to the board and paying a fee established by the board.
- (b) A psychologist whose license is on inactive status does not accrue a penalty for late payment of the renewal fee for the license.

**SUBCHAPTER G. LICENSE RENEWAL**

**Sec. 501.301. LICENSE EXPIRATION.**

- (a) A license issued under this chapter expires on December 31 of the year following the date the license is issued or renewed. A license

of a psychological associate expires on May 31 of the year following the date the license is issued or renewed.

- (b) The board by rule may adopt a system under which licenses expire on various dates during the year. For a year in which the expiration date is changed, the board shall prorate the licensing fee so that each license holder pays only the portion of the fee that is allocable to the number of months during which the license is valid. On renewal of the license on the new expiration date, the entire licensing fee is payable.

**Sec. 501.302. LICENSE RENEWAL.**

- (a) A person may renew an unexpired license by paying to the board the required renewal fee before the expiration date of the license.
- (b) A person whose license has been expired for 90 days or less may renew the license by paying to the board the required renewal fee and a fee that is equal to half of the amount of the examination fee for the license. A person whose license has been expired for more than 90 days but less than one year may renew the license by paying to the board all unpaid renewal fees and a fee that is equal to the amount of the examination fee for the license.
- (c) Except as provided by Section 501.303, a person whose license has been expired for one year or more 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.
- (d) Not later than the 30th day before the expiration date of a person's license, the board shall send written notice of the impending expiration to the person at the person's last known address according to the board's records.
- (e) The renewal procedures prescribed by this section apply to renewal of a specialty certificate.

**Sec. 501.303. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER.**

- (a) The board 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 applied for renewal.
- (b) The person must pay to the board a fee that is equal to the amount of the examination fee for the license.

**Sec. 501.304. CONTINUING EDUCATION.**

- (a) The board shall establish a mandatory continuing education program for persons licensed by the board. The board by rule

- shall establish a minimum number of hours of continuing education required to renew a license under this chapter.
- (b) The board shall identify the key factors for the competent performance by a license holder of the holder's professional duties.
  - (c) The board shall:
    - (1) by rule develop a process to evaluate and approve continuing education courses; and
    - (2) adopt a procedure to assess a license holder's participation in continuing education programs.
  - (d) The board may assess the continuing education needs of license holders and require license holders to attend continuing education courses specified by the board.
  - (e) The process developed under Subsection (c)(1) may include a process under which the board evaluates and approves appropriate courses for the continuing education program that are developed or approved for license holders by national and state associations that represent license holders, by other mental health professional associations, and by institutions of higher education.

## **SUBCHAPTER H. PRACTICE OF PSYCHOLOGIST**

### **501.351. GENERAL AUTHORITY TO DELEGATE.**

- (a) A psychologist licensed under this chapter may delegate to a provisionally licensed psychologist, a newly licensed psychologist who is not eligible for managed care panels, a person who holds a temporary license issued under Section 501.263, a person enrolled in a formal internship as provided by board rules, and a person who satisfies Section 501.255(a) and is in the process of acquiring the supervised experience required by Section 501.252(b)(2) any psychological test or service that a reasonable and prudent psychologist could delegate within the scope of sound psychological judgment if the psychologist determines that:
  - (1) the test or service can be properly and safely performed by the person;
  - (2) the person does not represent to the public that the person is authorized to practice psychology; and
  - (3) the test or service will be performed in the customary manner and in compliance with any other law.
- (b) The delegating psychologist remains responsible for the psychological test or service performed by the person to whom the test or service is delegated, and the test or service is considered to be delivered by the delegating psychologist for billing purposes, including bills submitted to third-party payors. The person must

inform each patient on whom the test or service is performed that the person is being supervised by a licensed psychologist.

- (c) The board may determine whether:
  - (1) a psychological test or service may be properly and safely delegated under this section; and
  - (2) a delegated act constitutes the practice of psychology under this chapter.
- (d) A person who is a licensed psychologist and to whom another psychologist delegates a psychological test or service under this section may represent that the person is engaged in the practice of psychology.

**Sec. 501.352. PERFORMANCE OF DELEGATED ACT DOES NOT CONSTITUTE PRACTICE OF PSYCHOLOGY.** A person to whom a psychologist delegates a psychological test or service under Section 501.351(a) is not considered to be engaged in the independent practice of psychology without a license issued under this chapter unless the person acts with the knowledge that the delegation and the action taken under the delegation violate this subtitle.

## **SUBCHAPTER I. DISCIPLINARY PROCEDURES**

**Sec. 501.401. GROUNDS FOR DISCIPLINARY ACTION.** The board shall revoke or suspend a holder's license, place on probation a person whose license has been suspended, or reprimand a license holder who:

- (1) violates this chapter or a rule adopted by the board;
- (2) is convicted of a felony or of any offense that would be a felony under the laws of this state, or of a violation of a law involving moral turpitude;
- (3) uses drugs or alcohol to an extent that affects the person's professional competency;
- (4) engages in fraud or deceit in connection with services provided as a psychologist;
- (5) except as provided by Section 501.263:
  - (A) aids or abets the practice of psychology by a person not licensed under this chapter in representing that the person is licensed under this chapter;
  - (B) represents that the person is licensed under this chapter to practice psychology when the person is not licensed; or
  - (C) practices psychology in this state without a license under this chapter or without being qualified for an exemption under Section 501.004; or

- (6) commits an act for which liability exists under Chapter 81, Civil Practice and Remedies Code.

**Sec. 501.402. TEMPORARY LICENSE SUSPENSION.**

- (a) The board by rule shall adopt procedures for the temporary suspension of a license.
- (b) An executive committee of the board consisting of the presiding officer and two other board members appointed by the presiding officer may temporarily suspend a license if it determines from the evidence or information presented that the continued practice by the license holder constitutes a continuing or imminent threat to the public welfare.
- (c) The board may temporarily suspend a license without notice or hearing if, at the time the suspension is ordered, a hearing on whether disciplinary proceedings should be initiated against the license holder is scheduled for a date not later than the 14th day after the date of the suspension.
- (d) A second hearing on the suspended license shall be held not later than the 60th day after the date the suspension is ordered. If the second hearing is not held in the time provided by this subsection, the suspended license is automatically reinstated.
- (e) The board may also temporarily suspend a license on a majority vote.

**Sec. 501.403. HEARING.** A person is entitled to a hearing before the State Office of Administrative Hearings if the board proposes to:

- (1) refuse the person's application for a license;
- (2) suspend or revoke the person's license; or
- (3) reprimand the person.

**Sec. 501.404. SCHEDULE OF SANCTIONS.**

- (a) The board by rule shall adopt a schedule of the disciplinary sanctions that the board may impose under this chapter. In adopting the schedule of sanctions, the board shall ensure that the severity of the sanction imposed is appropriate to the type of violation or conduct that is the basis for disciplinary action.
- (b) In determining the appropriate disciplinary action, including the amount of any administrative penalty to assess, the board shall consider whether the person:
  - (1) is being disciplined for multiple violations of either this chapter or a rule or order adopted under this chapter; or
  - (2) has previously been the subject of disciplinary action by the board.
- (c) In the case of a person described by:

- (1) Subsection (b)(1), the board shall consider taking a more severe disciplinary action, including revocation of the person's license, than the disciplinary action that would be taken for a single violation; and
  - (2) Subsection (b)(2), the board shall consider taking a more severe disciplinary action, including revocation of the person's license, than the disciplinary action that would be taken for a person who has not previously been the subject of disciplinary action by the board.
- (d) The State Office of Administrative Hearings shall use the schedule for any sanction imposed as the result of a hearing conducted by that office.

**Sec. 501.405. APPEAL.** An appeal of an action of the board is governed by Chapter 2001, Government Code.

**Sec. 501.406. PROBATION.** If the board probates a license suspension, the board may require the license holder to:

- (1) report regularly to the board on matters that are the basis of the probation;
- (2) limit the person's practice to the areas prescribed by the board; or
- (3) continue or review continuing professional education until the license holder attains a degree of skill satisfactory to the board in those areas that are the basis of the probation.

**Sec. 501.407. REMEDIAL CONTINUING EDUCATION.** The board may require a license holder who violates this chapter to participate in a continuing education program. The board shall specify the continuing education program that the person may attend and the number of hours that the person must complete to fulfill the requirements of this section.

**Sec. 501.408. CORRECTIVE ADVERTISING.** The board may order corrective advertising if a psychologist, individually or under an assumed name, engages in false, misleading, or deceptive advertising.

**Sec. 501.409. ADMINISTRATIVE PROCEDURE.** A proceeding to refuse, revoke, or suspend a license or to reprimand a person is governed by Chapter 2001, Government Code.

**Sec. 501.410. RULES GOVERNING INFORMAL PROCEEDINGS.**

- (a) The board by rule shall adopt procedures governing:
  - (1) informal disposition of a contested case under Section 2001.056, Government Code; and

- (2) informal proceedings held to comply with Section 2001.054, Government Code.
- (b) Rules adopted under Subsection (a) must:
  - (1) provide the complainant and the license holder an opportunity to be heard;
  - (2) require the presence of a member of the board's legal staff, if the board has a legal staff, or, if the board does not have a legal staff, a representative of the attorney general's office to advise the board or board employees; and
  - (3) require the presence of at least one public member of the board.

## **SUBCHAPTER J. ADMINISTRATIVE PENALTY**

**Sec. 501.451. IMPOSITION OF ADMINISTRATIVE PENALTY.** The board may impose an administrative penalty on a person licensed or regulated under this chapter if the person violates this chapter or a rule or order adopted under this chapter.

**Sec. 501.452. AMOUNT OF PENALTY.**

- (a) The amount of an administrative penalty may not exceed \$1,000. Each day a violation continues or occurs is a separate violation for purposes of imposing a penalty.
- (b) The amount of the penalty shall 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. 501.453. REPORT AND NOTICE OF VIOLATION AND PENALTY.**

- (a) If the executive director determines that a violation may have occurred, the executive director shall issue to the board a report stating the facts on which the determination is based. The board shall determine whether a violation occurred. If the board determines that a violation occurred, the board shall make a



recommendation on the imposition of an administrative penalty, including a recommendation on the amount of any penalty.

- (b) Not later than the 14th day after the date the report is issued, the executive director shall give written notice of the report to the person on whom the penalty may be imposed. 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 recommended penalty; 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. 501.454. PENALTY TO BE PAID OR HEARING REQUESTED.**

- (a) Not later than the 20th day after the date the person receives the notice, the person may in writing:
  - (1) accept the board'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 board's determination and recommended penalty, the board shall issue an order and impose the recommended penalty.

**Sec. 501.455. HEARING.**

- (a) If the person requests a hearing or fails to respond in a timely manner to the notice, the executive director shall set a hearing and give 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 board a proposal for a decision as to the occurrence of the violation and the amount of any proposed administrative penalty.

**Sec. 501.456. DECISION BY BOARD.**

- (a) Based on the findings of fact, conclusions of law, and proposal for a decision, the board by order may determine that:
  - (1) a violation occurred and impose an administrative penalty;
  - or
  - (2) a violation did not occur.
- (b) The notice of the board's order given to the person under Chapter 2001, Government Code, must include a statement of the right of the person to judicial review of the order.

**Sec. 501.457. OPTIONS FOLLOWING DECISION: PAY OR APPEAL.**

- (a) Not later than the 30th day after the date the board's order becomes final, the person shall:
  - (1) pay the administrative penalty;
  - (2) pay the penalty and file a petition for judicial review contesting the occurrence of the violation, the amount of the penalty, or both; or
  - (3) without paying the penalty, 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, a person who acts under Subsection (a)(3) 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 that is approved by the court and that is:
      - (i) for the amount of the penalty; and
      - (ii) effective until judicial review of the board'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 director by certified mail.
- (c) If the executive director receives a copy of an affidavit under Subsection (b)(2), the executive director 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 and to give a supersedeas bond.

**Sec. 501.458. COLLECTION OF PENALTY.** If the person does not pay the administrative penalty and enforcement of the penalty is not stayed, the executive director may refer the matter to the attorney general for collection of the penalty.

**Sec. 501.459. DETERMINATION BY COURT.**

- (a) If the court finds that a violation has occurred after the court reviews the board's order imposing an administrative penalty, the court may uphold or reduce the amount of the penalty and order the person to pay the full or reduced 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. 501.460. 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 if the penalty is not imposed or order the release of the bond after the person pays the penalty if the person posted a supersedeas bond.
- (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. 501.461. ADMINISTRATIVE PROCEDURE.** A proceeding under this subchapter is subject to Chapter 2001, Government Code.

**Sec. 501.462. DEPOSIT OF PENALTY.** An administrative penalty collected under this subchapter shall be deposited in the general revenue fund.

**SUBCHAPTER K. OTHER PENALTIES AND ENFORCEMENT PROVISIONS**

**Sec. 501.501. INJUNCTIVE RELIEF.**

- (a) The board may commence an action in its own name for an injunction to restrain a violation of this chapter.
- (b) The attorney general or a county or district attorney shall represent the board in an action under this section.
- (c) An action for injunctive relief under this section is in addition to another action authorized by law.

**Sec. 501.502. CIVIL PENALTY.**

- (a) A person who violates this chapter or a rule or order adopted under this chapter is liable to the state for a civil penalty of \$1,000 for each day of violation.

- (b) On the board's request, the attorney general shall bring an action to recover a civil penalty under this section.

**Sec. 501.503. CRIMINAL PENALTY.**

- (a) A person commits an offense if the person engages in the practice of psychology or represents that the person is a psychologist in violation of this chapter.
- (b) An offense under this section is a Class A misdemeanor.
- (c) Each day a violation occurs is a separate offense.

**Sec. 501.504. MONITORING OF LICENSE HOLDER.** The board by rule shall develop a system to monitor a license holder's compliance under this chapter. Rules adopted under this section must include procedures to:

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

**Sec. 501.505. OPTION TO ORDER REFUND.**

- (a) Under an agreement resulting from an informal settlement conference, the board may order a license holder to refund to the person who paid for the psychological services at issue an amount not to exceed the amount the person paid to the license holder for a service regulated by this chapter instead of or in addition to imposing an administrative penalty under this chapter.
- (b) The board may not include an estimation of other damages or harm in a refund order.

# **TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS' RULES**

## **GENERAL RULINGS**

- 461.1. References by Board Members.** Current members of the Board may not provide references for an applicant for any license granted by the Board. Current Board members may document any training and/or experience an applicant received under the Board member's supervision.

*Adopted to be effective February 8, 1982*

*Amended: to be effective: May 1, 1986; June 5, 2008*

- 461.2. Unofficial Statements and/or Decisions.** Unofficial statements made by a Board member, a Board committee member, an advisory committee member, or staff member are not binding on the Board. No member or representative of the Board may make statements or decisions which are binding upon the Board in its deliberations upon ultimate issues presented for Board decision. Issues which ordinarily require Board decision include settlements of contested matters regarding applications, applicant qualifications and licensure, complaint resolution and/or legal matters involving modification, or Board rehearing of any prior decision rendered by the Board in performance of those statutory duties imposed by the provisions of the Psychologists' Licensing Act.

*Adopted to be effective: February 8, 1982*

*Amended: December 24, 1992; June 3, 1999; June 5, 2008*

- 461.3. Former Board Members.** A Board member whose term has expired and who has ceased to serve as a Board member will not be employed or utilized to represent the Board in any official capacity except to serve as a professional reviewer. A former Board member may not hold himself or herself out as an official or unofficial representative of the Board. Any such representations are not binding upon the Board in any way. Disclosure of confidential or privileged information obtained by a former Board member in his or her capacity as a Board member is unprofessional conduct and grounds for disciplinary action by the Board.

*Adopted to be effective: June 3, 1999*

*Amended: June 12, 2003; July 5, 2018*

- 461.4. Replacement and Duplicate Licenses.** Replacement and duplicate licenses may be obtained upon application and payment of the appropriate fee.

*Adopted to be effective: July 12, 1995*  
*Amended: June 3, 1999*

**461.5. Contents of License.** The license issued to a licensee will state the licensee's name, license number, and highest relevant academic degree held at the time of licensure. The annual renewal permit issued to a licensee will state the licensee's name and license number, but will not reflect any academic degrees.

*Adopted to be effective: February 8, 1982*

*Amended: February 21, 1994; June 3, 1999; June 5, 2008; June 16, 2014*

**461.6. File Updates.** An applicant or licensee is responsible for keeping his or her professional file updated. All changes must be reported to the Board in writing within 90 days. Additionally, a name change request must be accompanied by a copy of a current driver's license, social security card, marriage license, divorce decree or court order stating name change.

*Adopted to be effective: February 8, 1982*

*Amended: April 20, 1994; April 28, 1995; June 3, 1999; June 5, 2008; December 7, 2008*

**461.7. License Statuses.**

- (a) **Active Status.** Any licensee with a license on active status may practice psychology pursuant to that license, subject to any restrictions imposed by the Board. Any license that is not on inactive, delinquent, retired, resigned, expired or revoked status is considered to be on active status. Active status is the only status under which a licensee may engage in the practice of psychology.
- (b) **Inactive Status.**
  - (1) A licensee with an unrestricted active license may elect inactive status through the Board's online licensing system. A licensee who elects inactive status must return his or her current renewal certificate or permit for the license to the Board and pay the associated fee.
  - (2) A licensee with an inactive license is not required to comply with the professional development requirements set forth in Board rule 461.11 while his or her license is inactive.
  - (3) The inactive status period for a license shall coincide with the license renewal period. At the end of the renewal period, if the inactive status has not been renewed or the license returned to active status, the license will expire.
  - (4) In order to continue on inactive status, an inactive licensee must renew his or her inactive status each renewal period. Licensees may renew their inactive

status through the Board's online licensing system by completing the online renewal requirements and paying the associated fee.

- (5) An inactive license may be reactivated at any time by submitting a written request to return to active status to the Board's office. When reactivating a license, a licensee must pay the renewal fee associated with the license. A license that has been reactivated is subject to the standard renewal schedule and requirements, including renewal and late fees. Notwithstanding the foregoing, a license that is reactivated within 60 days of its renewal date will be considered as having met all renewal requirements and will be renewed for the next renewal period.
  - (6) Any licensee reactivating a license from inactive status must provide proof of completion of 40 hours of professional development meeting the requirements of Board rule §461.11 of this title (relating to Professional Development) before reactivation will occur. The professional development hours must have been obtained within the 24 month period preceding the request for reactivation.
  - (7) A licensee wishing to reactivate his or her license that has been on inactive status for four years or more must take and pass the Jurisprudence Exam with the minimum acceptable score as set forth in Board rule §463.14 of this title (relating to Written Examinations) unless the licensee holds another license on active status with this Board.
  - (8) A licensee with a pending complaint may not place a license on inactive status. If disciplinary action is taken against a licensee's inactive license, the licensee must reactivate the license until the terms of the disciplinary action or restricted status have been terminated. Failure to reactivate a license when required by this paragraph shall constitute grounds for further disciplinary action.
- (c) Delinquent Status. A licensee who fails to renew his/her license for any reason when required is considered to be on delinquent status. Any license delinquent for more than 12 consecutive months shall expire. The Board may sanction a delinquent licensee for violations of Board rules.
  - (d) Restricted Status. Any license that is suspended, on probated suspension, or required to fulfill some requirements in a Board order is a restricted license.

- (e) Retirement Status. A licensee who is on active or inactive status with the Board may retire his/her license by notifying the Board in writing prior to the renewal date for the license. A licensee with a delinquent status may also retire his/her license by notifying the Board in writing prior to the license expiring. However, a licensee with a pending complaint or restricted license may not retire his/her license. A licensee who retires his/her license shall be reported to have retired in good standing.
- (f) Resignation Status. A licensee may resign only upon express agreement by the Board. A licensee who resigns shall be reported as:
  - (1) Resigned in lieu of adjudication if permitted to resign while a complaint is pending; or
  - (2) Resigned in lieu of further disciplinary action if permitted to resign while the license is subject to restriction.
- (g) Expired Status. A license that has been delinquent for twelve months or more or any inactive license that is not renewed or reactivated is considered to be expired.
- (h) Revoked Status. A license is revoked pursuant to Board Order requiring revocation as a disciplinary action

*Adopted to be effective: September 5, 2019*

*Amended: March 20, 1997; November 10, 1997; October 29, 1998; June 3, 1999; September 13, 2001; June 12, 2003; November 28, 2004; June 5, 2008; March 19, 2012; March 23, 2014; January 1, 2015; April 10, 2018*

**461.8. Remailing Fees.** A license that has been mailed and not picked up by the addressee and which has been returned to the Board through no fault of the Board shall not be remailed until the licensee pays a remailing fee. See Chapter 473 of this title (relating to Fees).

*Adopted to be effective: February 8, 1982*

*Amended: June 3, 1999*

**461.9. Conflicts of Interest and Recusals.**

- (a) A board member who has any personal or professional interest that might reasonably tend to influence the discharge of his or her duties in a matter pending before the board, shall disclose that conflict in an open meeting called and held in compliance with Chapter 551 of the Texas Government Code. However, if the required disclosure relates to a matter to be considered during a closed meeting, the board member shall disclose the conflict during the closed meeting. A board member may not vote or otherwise participate in any discussion or decision on a pending matter where the board member's personal or professional



interest might reasonably tend to influence the discharge of his or her duties. Any conflict disclosed by a board member shall be entered in the minutes of a meeting or the certified agenda.

- (b) An individual who has any personal or professional interest that might reasonably tend to influence the discharge of his or her duties while serving on a committee, temporary suspension or disciplinary panel, or workgroup, shall disclose that conflict to the committee, panel, or workgroup, as well as the executive director. The individual may not vote or otherwise participate in any discussion or decision on a pending matter where the individual's personal or professional interest might reasonably tend to influence the discharge of his or her duties. Any conflict shall be entered in any minutes or notes kept by the committee, panel, or workgroup.
- (c) A board member may not vote or otherwise participate in any discussion or decision conducted during a meeting held in compliance with Chapter 551 of the Texas Government Code regarding a complaint, eligibility proceeding, or disciplinary action previously heard by the board member while serving on a temporary suspension or disciplinary panel. A board member who is disqualified under this subsection shall recuse himself or herself from any voting or discussions on the matter, and the recusal shall be entered in the minutes of the meeting or the certified agenda.
- (d) Any individual who is required to make a disclosure, recuse himself or herself, or is restricted from voting or participating in some manner under this rule, shall also refrain from improperly influencing or attempting to improperly influence the discussion or decision on a matter in which the individual is prohibited from participating.
- (e) A disclosure required by this rule must be made as soon as possible once an individual becomes aware of facts giving rise to a duty to take action under this rule. Any information received by a board member or agency staff that might reasonably lead one to believe that an individual has a duty to take action under this rule must be sent to the executive director, who shall then forward the information to the individual.
- (f) It is presumed that the judgment of a reasonable person who is subject to this rule would not be materially affected because the individual holds a license issued by this agency.

*Adopted to be effective: September 26, 2017*

**461.10. License Required.**

- (a) A person may not engage in or represent that the person is engaged in the practice of psychology within this State, unless the person is licensed or been issued trainee status by the Board, or the person is exempt under §501.004 of the Psychologists' Licensing Act.
- (b) A person is engaged in the practice of psychology within this State if any of the criteria set out in §501.003(b) of the Psychologists' Licensing Act occurs within this State, either in whole or in part.
- (c) The activity or service of a post-doctoral fellow or resident in psychology is exempt from the Board's jurisdiction pursuant to §501.004(a)(2) of the Psychologists' Licensing Act if all of the following criteria are met:
  - (1) The person is enrolled in a formal post-doctoral program that is:
    - (A) accredited by the American Psychological Association (APA) or is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or
    - (B) substantially equivalent to a program described in subparagraph (A) of this paragraph;
  - (2) The activities or services take place under qualified supervision and are part of the formal post-doctoral program; and
  - (3) The person is designated as a psychological intern or trainee, or by another title that clearly indicates the person's training status.
- (d) A formal post-doctoral program which meets the following criteria will be considered substantially equivalent to an APA accredited or APPIC member program:
  - (1) An organized experience with a planned and programmed sequence of supervised training experiences.
  - (2) A designated psychologist responsible for the program who possesses expertise or competence in the program's area.
  - (3) Two or more licensed psychologists on staff, at least one designated as supervisor with expertise in area of practice.
  - (4) A minimum of 2 hours per week of face-to-face supervision.
  - (5) A minimum of 2 additional hours per week of learning activities.

- (6) A minimum of 25% of the fellow's time is spent providing professional psychological services.
- (7) Admission requirements that require the applicant to complete all professional degree requirements and a pre-doc internship, which at a minimum meets Board requirements.
- (8) A requirement that participants use titles such as intern, resident, fellow, or trainee.
- (9) Documentation describing the goals, content, organization, entrance requirements, staff, mechanisms for evaluations (minimum 2 per year), and a statement that the program meets Texas' licensure requirements.
- (10) At a minimum, an informal due process procedure regarding deficiencies and grievances.
- (11) A written requirement for at least 1500 hours to be completed in not less than 9 months and not more than 24 months.

*Adopted to be effective: January 1, 2015*

*Amended: July 3, 2016; December 18, 2018*

**461.11. Professional Development.**

- (a) Requirements. All licensees of the Board are obligated to continue their professional education by completing a minimum of 40 hours of professional development during each renewal period that they hold a license from the Board regardless of the number of separate licenses held by the licensee. Of these 40 hours, all licensees must complete a minimum of six hours of professional development in the areas of ethics, the Board's Rules of Conduct, or professional responsibility, and a minimum of six hours in the area of cultural diversity (these include, but are not limited to age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and social economic status).
- (b) Relevancy. All professional development hours must be directly related to the practice of psychology. The Board shall make the determination as to whether the activity or publication claimed by the licensee is directly related to the practice of psychology. In order to establish relevancy to the practice of psychology, the Board may require a licensee to produce, in addition to the documentation required by subsection (d) of this section, course descriptions, conference catalogs and syllabi, or other material as warranted by the circumstances. The Board does not pre-approve professional development credit. The Board shall not

allow professional development credit for personal psychotherapy, workshops for personal growth, the provision of services to professional associations by a licensee, foreign language courses, or computer training classes.

- (c) Professional development.
- (1) Required hours may be obtained by participating in one or more of the following activities, provided that the specific activity may not be used for credit more than once:
    - (A) attendance or participation in a formal professional development activity for which professional development hours have been pre-assigned by a provider;
    - (B) teaching or attendance as an officially enrolled student in a graduate level course in psychology at a regionally accredited institution of higher education;
    - (C) presentation of a program or workshop; and
    - (D) authoring or editing publications.
  - (2) Providers include:
    - (A) national, regional, state, or local psychological associations; public school districts; regional service centers for public school districts; state or federal agencies; or psychology programs, or counseling centers which host accredited psychology training programs, at regionally accredited institutions of higher education; or
    - (B) other formally organized groups providing professional development that is directly related to the practice of psychology. Examples of such providers include: public or private institutions, professional associations, and training institutes devoted to the study or practice of particular areas or fields of psychology; and professional associations relating to other mental health professions such as psychiatry, counseling, or social work.
  - (3) At least half of the required 40 hours of professional development must be obtained from or endorsed by a provider listed in subsection (c)(2)(A) of this section.
  - (4) Credits will be provided as follows:
    - (A) For attendance at formal professional development activities, the number of hours pre-assigned by the provider.
    - (B) For teaching or attendance of a graduate level psychology course, four hours per credit hour. A

particular course may not be taught or attended by a licensee for professional development credit more than once.

- (C) For presentations of workshops or programs, three hours for each hour actually presented, for a maximum of six hours per year. A particular workshop or presentation topic may not be utilized for professional development credit more than once.
  - (D) For publications, eight hours for authoring or co-authoring a book; six hours for editing a book; four hours for authoring a published article or book chapter. A maximum credit of eight hours for publication is permitted for any one year.
- (5) Professional development hours must have been obtained during the 24 month renewal period for which they are submitted. If the hours were obtained during the license renewal month and are not needed for compliance for that renewal period, they may be submitted the following renewal period to meet that period's professional development requirements. A professional development certificate may not be considered towards fulfilling the requirements for more than one renewal period.
- (d) Documentation. It is the responsibility of each licensee to maintain documentation of all professional development hours claimed under this rule and to provide this documentation upon request by the Board. Licensees shall maintain documentation of all professional development hours claimed for at least five years. The Board will accept as documentation of professional development:
- (1) for hours received from attendance or participation in formal professional development activities, a certificate or other document containing the name of the sponsoring organization, the title of the activity, the number of pre-assigned professional development hours for the activity, and the name of the licensee claiming the hours;
  - (2) for hours received from attending college or university courses, official grade slips or transcripts issued by the institution of higher education must be submitted;
  - (3) for hours received for teaching college or university courses, documentation demonstrating that the licensee taught the course must be submitted;

- (4) for presenters of professional development workshops or programs, copies of the official program announcement naming the licensee as a presenter and an outline or syllabus of the contents of the program or workshop;
  - (5) for authors or editors of publications, a copy of the article or table of contents or title page bearing the name of licensee as the author or editor;
  - (6) for online or self-study courses, a copy of the certificate of completion containing the name of the sponsoring organization, the title of the course, the number of pre-assigned professional development hours for the activity, and stating the licensee passed the examination given with the course.
- (e) Electronic Declaration of Professional Development. All licensees must declare, on or before their renewal date, the professional development being submitted for the current renewal period through the Board's online renewal system. Licensees shall not submit documentation of professional development credits obtained unless requested to do so by the Board.
- (f) Audit. The Board conducts two types of audits. Licensees shall comply with all Board requests for documentation and information concerning compliance with professional development and/or Board audits.
- (1) Random audits. Each month, 10% of the licensees will be selected by an automated process for an audit of the licensee's compliance with the Board's professional development requirements. The Board will notify a licensee by mail of the audit. Upon receipt of an audit notification, a licensee must submit his or her professional development documentation through the Board's online renewal system, or by fax, email, or regular mail before a license will be renewed.
  - (2) Individualized audits. The Board will also conduct audits of a specific licensee's compliance with its professional development requirements at any time that the Board determines that there are grounds to believe that a licensee has not complied with the requirements of this rule. Upon receipt of notification of an individualized audit, the licensee must submit all requested documentation within the time period specified in the notification.

*Adopted to be effective: February 8, 1982*

*Amended: October 15, 1993; January 2, 1995; January 9, 1997; June 2, 1997; November 10, 1997; August 27, 1998; June 3, 1999; December 18, 2000; November 29, 2001; March 10, 2004;*

*June 5, 2005; March 3, 2008; December 7, 2008; September 26, 2013; March 26, 2015; December 25, 2016; December 18, 2018; September 5, 2019*

**461.12. Prohibition Against Dual Office Holding.**

- (a) Neither Board members nor the Executive Director may accept an offer to serve in another nonelective office unless they first obtain from the Board a finding that they have satisfied Article XVI, Section 40, of the Texas Constitution.
- (b) The Board must make a written record of any finding under subsection (a). The finding must include any compensation that the Board member or Executive Director receives from holding the additional office, including salary, bonus, or per diem payment.

*Adopted to be effective: March 26, 2015*

**461.13. Errors.** If the Board discovers an error was made in processing an application, in examining an applicant, or in any of its other activities, the Board has the authority to correct this error.

*Adopted to be effective: February 8, 1982*

*Amended: June 5, 2008*

**461.14. Conflict between Other Laws and Board Rules.** In the event of a conflict between a Board rule and the state or federal constitution; a state or federal statute; or a rule, guideline, or requirement promulgated by a federal office or agency, the state or federal law, guideline, or requirement shall control.

*Adopted to be effective: April 5, 1982*

*Amended: March 18, 1993; June 3, 1999; September 26, 2017*

**461.15. Compliance with Act, Rules, Board Directives and Orders.**

Licensees must comply with the Act, Rules, Board Directives and Board Orders and must cooperate with Board investigations as prescribed in §465.35 of this title. Failure to comply may subject the licensee to a Board-initiated complaint and disciplinary action.

*Adopted to be effective: June 24, 1986*

*Amended: September 20, 1989; August 19, 1992; October 15, 1996; June 3, 1999; April 25, 2001; June 12, 2003*

**461.16. Filing of False or Misleading Information with the Board.**

- (a) Applicants. Applicants are prohibited from providing misleading or false information in their applications and required documentation for licensure. For an infraction of this type, the Board may agree to process the application pursuant to an eligibility order. For a serious infraction of this type that could lead to licensure of an unqualified person, the Board may deny licensure.

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

*Adopted to be effective: May 30, 2007*

*Amended: March 23, 2014; September 5, 2019*

**461.17. Profile Information.** The Board is required to establish a system whereby licensed psychologists will have public profile information maintained by the Board. The Board must collect a fee to be set by the Texas Online Authority beginning in 2002 for this system. Licensed psychologists must supply this information as a condition of annual renewal. This information may be supplied as a part of the online renewal process. The Board collects the following information as part of its profile information on licensed psychologists:

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

*Adopted to be effective: February 21, 2002*

*Amended: June 12, 2003; April 19, 2016*

**461.19. Petition for Rulemaking.** Any person may petition for rulemaking in accordance with §2001.021 of the Administrative Procedure Act by submitting a written request to the Board at least



60 days prior to a Board meeting setting forth or identifying the rule the petitioner wants the Board to adopt or change, the reasons why the petitioner believes the requested rulemaking is necessary, and attaching a copy of the proposed rule or any proposed changes with deletions crossed through and additions underlined.

*Adopted to be effective: September 19, 2012*

**461.20. Agency Staff Training and Education.**

- (a) In accordance with the State Employee Training Act, Board staff may be permitted or required to attend training or education programs if those programs are related to the employee's duties or prospective duties, and the training materially aids effective administration of the Psychologists' Licensing Act or Board rules and serves an important public purpose.
- (b) The Board's Executive Director shall be eligible to attend training and education programs, and shall determine which other employees will be permitted or required to attend training.
- (c) Employees who receive training must utilize the training opportunity to prepare for technological and legal developments facing the Board, or to increase their work capabilities or competence.
- (d) An employee, prior to receiving training for three or more months, during which the employee does not perform his or her regular duties, must enter into a written agreement with the Board to comply with the requirements of Tex. Gov't Code Ann. §656.103(a)(1). Employees who fail or refuse to enter into such an agreement shall not be permitted to attend training lasting three or more months.
- (e) The Board shall pay the costs and expenses related to approved training in accordance with the State Employee Training Act, the Comptroller's rules and regulations, and the Board's own policies relating to employee reimbursement.

*Adopted to be effective: June 24, 2015*

**461.21. Sick Leave Pool.**

- (a) The Board hereby establishes a sick leave pool to assist employees and their immediate families in dealing with catastrophic illness or injury that forces them to exhaust all accrued sick leave.
- (b) The Board's sick leave pool shall be administered by the Executive Director in accordance with Chapter 661 of the Texas Government Code, the rules and regulations of the Employees Retirement System of Texas, and the Texas

Human Resources Statutes Inventory manual published by the Texas State Auditor's Office.

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

*Adopted to be effective: June 24, 2015*

**461.22. Agency Contracts and Purchasing**

- (a) In accordance with Tex. Gov't Code Ann. §2155.076, the Board adopts by reference the rules of the Comptroller of Public Accounts regarding purchasing protest procedures set forth in 34 Tex. Admin. Code §20.384. All vendor protests under this rule must be submitted to the Board's Chief Financial Officer, who shall initiate a review of the protest. Any appeal to a determination of a protest by the Chief Financial Officer shall be to the Executive Director, who may elect to submit the appeal to the Board for final determination. The Board shall maintain all documentation on the purchasing process that is the subject of a protest or appeal in accordance with the Board's retention schedule.
- (b) In accordance with Tex. Gov't Code Ann. §2156.005, the Board adopts by reference the rules of the Comptroller of Public Accounts regarding bid opening and tabulation set forth in 34 Tex. Admin. Code §20.35.
- (c) In accordance with Tex. Gov't Code Ann. §2260.052, the Board adopts by reference the rules of the Office of the Attorney General in 1 Tex. Admin. Code Part 3, Chapter 68 (relating to Negotiation and Mediation of Certain Contract Disputes). The rules set forth a process to permit parties to structure a negotiation or mediation in a manner that is most appropriate for a particular dispute regardless of the contract's complexity, subject matter, dollar amount, or method and time of performance.
- (d) In accordance with Tex. Gov't Code Ann. §2261.202, the Executive Director shall be responsible for monitoring agency contracts and for monitoring agency compliance with all applicable laws governing agency contracting. The Executive Director may delegate those duties necessary to carry out this responsibility to other agency staff who report directly to the Executive Director.

*Adopted to be effective: October 6, 2015*

**461.35. Use of Historically Underutilized Businesses (HUBS).** In accordance with Texas Government Code §2161.003, the Board adopts by reference the rules of the Comptroller of Public Accounts

in 34 TAC Part 1, Chapter 20, Subchapter B (relating to  
Historically Underutilized Business Program).

*Adopted to be effective: October 1, 2000*

*Amended: March 12, 2013*

## APPLICATIONS AND EXAMINATIONS

- 463.1. Types of Licensure.** The Board accepts applications for four types of licenses to practice psychology in the state of Texas:
- (1) Licensed Psychological Associate. This is a license for qualified individuals with a graduate degree to practice psychology. Requirements for the psychological associate license are found in §463.8 of this title (relating to Licensure as a Psychological Associate) and §463.14 of this title (relating to Written Examinations).
  - (2) Licensed Specialist in School Psychology. This license is required by law for the practice of school psychology in the public schools of Texas. Requirements for the specialist in school psychology license are found in §463.9 of this title (relating to Licensure as a Specialist in School Psychology) and §463.14 of this title.
  - (3) Provisionally Licensed Psychologist. This is a doctoral level license to practice psychology under the supervision of a licensed psychologist. This license is a prerequisite for licensure as a psychologist. Requirements for provisionally licensed psychologist are found in §463.10 of this title (relating to Provisionally Licensed Psychologist) and §463.14 of this title.
  - (4) Licensed Psychologist. This is a doctoral level license for the independent practice of psychology. It is obtained by two means:
    - (A) Obtaining provisional licensure as a psychologist and completing the required two years of supervised experience. Requirements for licensure as a psychologist are found in §463.11 of this title (relating to Licensed Psychologist), and §463.14 of this title.
    - (B) Applying from a jurisdiction which holds a reciprocity agreement with Texas, meeting the Board's requirements for licensure by reciprocity, and passing the Board's Jurisprudence Exam. Criteria for reciprocity jurisdictions are listed in §463.29 of this title (relating to Reciprocity Requirements). Requirements for licensure as a psychologist by means of reciprocity are found in §463.12 of this title (relating to Licensed Psychologist by Reciprocity) and §463.14 of this title.

*Adopted to be effective: October 3, 1999*

*Amended: August 25, 2005; December 27, 2015; December 18, 2017*

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

- (1) An individual must download, or otherwise obtain and complete the application packet for the type of licensure desired from the Board's website. No applicant can have more than one application pending before the Board at one time, unless the second application is to become a licensed specialist in school psychology.
- (2) An applicant submits the completed application form, any other information required by the Board, and the application filing fee. An application which contains an incorrect fee amount or which does not include the information required to be submitted must be returned to the applicant. The responsibility of ensuring a complete application resides with the applicant. The application packet will contain a checklist which should be followed carefully. An incomplete application remains in the active file for 90 days following receipt by the Board, at the end of which time, if still incomplete, it is void. If licensure is sought again, a new application and filing fee must be submitted.
- (3) Applications which contain all required information are reviewed by Board staff, and if necessary the Applications Committee of the Board, to determine if the applicants are eligible to sit for the examinations.
- (4) Once an application is reviewed, the applicant receives a letter from the Board approving or denying the applicant to sit for the examinations. If the letter indicates the applicant is approved, the applicant may then submit an examination application and the appropriate fees for any required examinations.
- (5) After sitting for examination(s), an applicant is informed in writing of the results of the examination(s). An applicant who has passed the examination(s) is informed in writing that the applicant has been licensed.
- (6) If an applicant's application for licensure is denied, the applicant shall have 20 days from the date of denial to submit a written request to the Board for a hearing at the State Office of Administrative Hearings. The Board must receive the written request on or before the 20th day following the date of denial for the request to be

timely made. If a timely request is made, the Board shall refer the contested case to the State Office of Administrative Hearings for a hearing. If a timely written request is not made, the denial is final.

*Adopted to be effective: October 3, 1999*

*Amended: February 21, 2002; June 12, 2003; November 29, 2012; June 12, 2013*

**463.3. Applicants with Pending Complaints.** For any applicant against whom a complaint is filed with this Board, any final decision on the application will be held in abeyance until the Board has made a final determination on the complaint filed. If the complaint is not resolved within 180 days after an application has been held in abeyance, the Board shall review the complaint and make a determination as to whether to issue the license notwithstanding the complaint. In making the determination, the Board shall consider any relevant factor, including the potential for harm to the public if the license is granted, and the nature and severity of the allegations. The applicant will be permitted to take all required exams as scheduled but will not be licensed until approved by the Board.

*Adopted to be effective: October 3, 1999*

**463.4. Applicants with Disabilities.**

- (a) The Texas State Board of Examiners of Psychologists shall comply with applicable provisions of the Americans with Disabilities Act in its applications procedures by providing reasonable accommodations that do not violate the Board's Act and Rules.
- (b) It is the responsibility of the individual applicant to inform the Board in advance of any reasonable accommodations needed during the application process, including any examinations conducted by the Board. Only requests which give the Board sufficient notice and opportunity to provide reasonable accommodations without disrupting the normal business of the agency shall be considered.
- (c) Dyslexia. Dyslexia is defined by §51.970 of the Texas Education Code. The Board will provide reasonable accommodation to an applicant for licensure who complies with subsection (b) of this section and who provides proof of a diagnosis of dyslexia from a qualified practitioner. The practitioner should also identify the type of examination accommodation that is recommended for the applicant.

*Adopted to be effective: November 10, 1997*

*Amended: March 13, 2000; December 6, 2011*

**463.5. Application File Requirements.** To be complete, an application file must contain whatever information or examination results the Board requires. Unless specifically stated otherwise by Board rule, all applications for licensure by the Board must contain:

- (1) An application and required fee(s);
- (2) Official transcripts indicating the date the degree required for licensure was awarded or conferred. Transcripts must be sent directly to the Board's office from all colleges/universities where post-baccalaureate course work was completed;
- (3) Documentation that applicant has complied with Board Rule §463.14 of this title (relating to Written Examinations);
- (4) A criminal history record check of the applicant from the Texas Department of Public Safety and the Federal Bureau of Investigation; and
- (5) Supportive documentation and other materials the Board may deem necessary, including current employment arrangements and the name of all jurisdictions where the applicant currently holds a certificate or license to practice psychology.

*Adopted to be effective: January 1, 1976*

*Amended: February 8, 1982; September 20, 1989; October 4, 1991; May 18, 1992; August 19, 1992; July 22, 1993; December 9, 1993; April 20, 1994; April 28, 1995; April 25, 1996; January 9, 1997; June 2, 1997; November 10, 1997; March 23, 1998; October 3, 1999; November 29, 2001; September 3, 2006; March 3, 2008; March 12, 2013; June 26, 2017; September 26, 2017*

**463.6. Regionally Accredited Institutions.** A regionally accredited educational institution stated in §§501.255(a)(1)(A), 501.259, 501.004 and 501.260 of the Act is defined as an educational institution accredited by one of the following regional accrediting organizations:

- (1) Southern Association of Colleges and Schools Commission on Colleges
- (2) Western Association of Schools and Colleges, Senior College and University Commission
- (3) Northwest Commission on Colleges and Universities
- (4) Higher Learning Commission
- (5) New England Association of Schools and Colleges
- (6) Middle States Commission on Higher Education, also known as the Mid-Atlantic Region Commission on Higher Education

*Adopted to be effective: October 3, 1999*

*Amended: March 13, 2000; June 5, 2008; December 27, 2015; July 5, 2018*

**463.7. Criminal History Records Reports.**

- (a) Before issuing a license, the Board will obtain or require the applicant to obtain a criminal history record report as determined by the Board.
- (b) The Board will obtain updated criminal history record reports on all licensees quarterly from the Texas Department of Public Safety.
- (c) The Board may obtain an updated criminal history record report at any time on a licensee alleged to have violated the Act or rules of the Board.
- (d) Each licensee who was not required to submit a fingerprint criminal history record report as a condition of licensure must submit a fingerprint criminal history record report to the Board as a condition for renewal. This one-time renewal requirement begins for January 2015 renewals and will be phased in with approximately one-fourth of licensees required to submit their reports in the first calendar year and remaining licensees required to submit their reports in the following three calendar years as prescribed by the Board. A report must be received by the Board before the eligible licensee is allowed to renew the license.
- (e) A licensee requesting their license be returned to active status from inactive status, must undergo a fingerprint criminal history check before their license will be returned to active status if the licensee has not submitted to a fingerprint criminal history check for the Board in the past. A report must be received by the Board before the license will be returned to active status.

*Adopted to be effective: December 11, 2006*

*Amended: December 3, 2009; March 26, 2015*

**463.8. Licensed Psychological Associate.**

- (a) Licensure Requirements. An applicant for licensure as a psychological associate must:
  - (1) hold a graduate degree in psychology from a regionally accredited institution of higher education;
  - (2) provide documentation of at least six (6) semester credit hours of practicum, internship or other structured experience within the applicant's graduate degree program under the supervision of a licensed psychologist;
  - (3) pass all examinations required by the board and meet each of the criteria listed in §501.255(a)(2)-(9) of the Occupations Code; and
  - (4) demonstrate graduate level coursework in each of the following areas:



- (A) Psychological Foundations:
    - (i) the biological bases of behavior;
    - (ii) the acquired or learned bases of behavior, including learning, thinking, memory, motivation and emotion;
    - (iii) the social, cultural, and systemic bases of behavior;
    - (iv) the individual or unique bases of behavior, including personality theory, human development, and abnormal behavior;
  - (B) Research and Statistics:
    - (i) the methodology used to investigate questions and acquire knowledge in the practice of psychology;
    - (ii) coursework in research design and methodology, statistics, critical thinking, and scientific inquiry;
  - (C) Applied Psychology:
    - (i) the history, theory, and application of psychological principles;
    - (ii) the application of psychological theories to individuals, families, and groups;
  - (D) Assessment:
    - (i) intellectual, personality, cognitive, physical, and emotional abilities, skills, interests, and aptitudes;
    - (ii) socio-economic, including behavioral, adaptive, and cultural assessment;
  - (E) Interventions:
    - (i) the application of therapeutic techniques;
    - (ii) behavior management;
    - (iii) consultation; and
  - (F) Scientific and Professional, Legal, and Ethical Issues.
- (b) Degree Requirements.
- (1) For purposes of this rule:
    - (A) a graduate degree in psychology means the name of the candidate's major or program of studies contains the term "psychology;"
    - (B) a specialist degree shall be treated as a graduate degree; and
    - (C) one semester credit hour equals one and one-half quarter credit hours.
  - (2) A degree utilized to meet the requirements of this rule must consist of at least sixty (60) semester credit hours, with no more than twelve (12) semester credit

hours of practicum, internship, or structured experience being counted toward the total degree hour requirement.

- (3) Applicants must demonstrate proof of the graduate level coursework required in subsection (a)(4) of this section by identifying which courses or training listed on their transcripts satisfy the required areas of study. Applicants may be required to provide the board with an official course catalogue or description from their university or training program to verify whether a course meets the requirements of this rule.

(c) Supervision Requirements.

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

- (d) Notwithstanding subsection (c)(3), an application for independent practice may be denied if a gap of more than two years exists between the completion of the supervised experience required for independent practice and the date of application for independent practice. The rules governing the waiver of gaps related to supervised experience found in Board rule §463.11 shall govern any request for a waiver under this rule.
- (e) The correct title for a person licensed under this rule shall be "licensed psychological associate" or "psychological associate."
- (f) A licensed psychological associate authorized to practice independently under this rule must inform all patients and clients as part of the informed consent process, whether the licensee holds a master's, specialist or doctoral degree, and provide the patient with a current copy of any informational pamphlet or brochure published by the Board describing the differences between the levels of training and education received in master's, specialist, and doctoral degree programs. In lieu of providing each patient or client with a copy of the required pamphlet or brochure, licensees may publish in a conspicuous manner, the pamphlet or brochure on their website or provide a link to the pamphlet or brochure on the Board's website.
- (g) Continuation of Prior Law.
  - (1) Notwithstanding subsection (b)(1)(A), a person who begins a graduate program leading to a degree required by subsection (a)(1) before August 31, 2019, will be considered to have met the requirements of that subsection if the individual's degree is primarily psychological in nature. This subsection expires on August 31, 2021.
  - (2) Notwithstanding subsection (b)(2), a person who begins a graduate program leading to a degree required by subsection (a)(1) before August 31, 2019, will be considered to have met the requirements of that subsection if the individual has completed 42 semester credit hours with at least 27 of those hours in psychology. Applicants with degrees consisting of less than 42 semester credit hours may utilize a maximum of 12 semester credit hours from another graduate degree program in psychology to achieve the total of 42 semester credit hours. This subsection expires on August 31, 2021.
- (h) Notwithstanding subsections (c)(1)-(3), a licensed psychological associate with an active license as of

September 1, 2017 who maintained an active license throughout the three years preceding that date, is considered to have met the requirements of subsection (c)(2) and may practice independently in accordance with subsection (c)(3).

*Adopted to be effective: December 18, 2017*

**463.9. Licensed Specialist in School Psychology.**

- (a) Application Requirements. A completed application for licensure as a specialist in school psychology includes the following, in addition to the requirements set forth in Board rule §463.5 of this title (relating to Application File Requirements):
  - (1) Documentation of an appropriate graduate degree; and
  - (2) Documentation from the National School Psychologists' Certification Board sent directly to the Board indicating the applicant holds current valid certification as a Nationally Certified School Psychologist (NCSP); or documentation of the following sent directly to the Board:
    - (A) transcripts that verify that the applicant has met the requirements set forth in subsection (b) of this section;
    - (B) proof of the internship required by subsection (c) of this section if the applicant did not graduate from either a training program approved by the National Association of School Psychologists (NASP) or a training program in school psychology accredited by the American Psychological Association (APA); and
    - (C) the score that the applicant received on the School Psychology Examination sent directly from the Education Testing Service.
- (b) Training Qualifications.
  - (1) Applicants for licensure as a specialist in school psychology who hold a valid NCSP certification or who have graduated from a training program approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association will be considered to have met the training and internship requirements of this rule.
  - (2) Applicants for licensure who do not hold a valid NCSP certification, or who did not graduate from a training program approved by the National Association of School Psychologists or accredited in School

Psychology by the American Psychological Association, must have completed a graduate degree in psychology from a regionally accredited academic institution. Applicants applying under this paragraph must have completed, either as part of their graduate degree program or after conferral of their graduate degree, at least 60 graduate level semester credit hours from a regionally accredited academic institution. A maximum of 12 internship hours may be counted toward the 60 hour requirement. For purposes of this rule, a graduate degree in psychology means the name of the candidate's major or program of studies is titled psychology. Applicants applying under this paragraph must submit evidence of graduate level coursework as follows:

- (A) Psychological Foundations, including:
    - (i) biological bases of behavior;
    - (ii) human learning;
    - (iii) social bases of behavior;
    - (iv) multi-cultural bases of behavior;
    - (v) child or adolescent development;
    - (vi) psychopathology or exceptionalities;
  - (B) Research and Statistics;
  - (C) Educational Foundations, including any of the following:
    - (i) instructional design;
    - (ii) organization and operation of schools;
    - (iii) classroom management; or
    - (iv) educational administration;
  - (D) Assessment, including:
    - (i) psychoeducational assessment;
    - (ii) socio-emotional, including behavioral and cultural, assessment;
  - (E) Interventions, including:
    - (i) counseling;
    - (ii) behavior management;
    - (iii) consultation;
  - (F) Professional, Legal and Ethical Issues; and
  - (G) A Practicum.
- (c) Completion of internship. Applicants must have completed an internship with a minimum of 1200 hours. The internship must also meet the following criteria:
- (1) At least 600 of the internship hours must have been completed in a public school.
  - (2) The internship must be provided through a formal course of supervised study from a regionally accredited

- institution of higher education in which the applicant was enrolled; or the internship must have been obtained in accordance with Board rule §463.11(d)(1) and (d)(2)(C) of this title.
- (3) Any portion of an internship completed within a public school must be supervised by a Licensed Specialist in School Psychology, and any portion of an internship not completed within a public school must be supervised by a Licensed Psychologist.
  - (4) No experience which is obtained from a supervisor who is related within the second degree of affinity or consanguinity to the supervisee may be utilized.
  - (5) Unless authorized by the Board, supervised experience received from a supervisor practicing with a restricted license may not be utilized to satisfy the requirements of this rule.
  - (6) Internship hours must be obtained in not more than two placements. A school district, consortium, and educational co-op are each considered one placement.
  - (7) Internship hours must be obtained in not less than one or more than two academic years.
  - (8) An individual completing an internship under this rule must be designated as an intern.
  - (9) Interns must receive no less than two hours of supervision per week, with no more than half being group supervision. The amount of weekly supervision may be reduced, on a proportional basis, for interns working less than full-time.
  - (10) The internship must include direct intern application of assessment, intervention, behavior management, and consultation, for children representing a range of ages, populations and needs.
- (d) Additional Requirements. In addition to the requirements of subsection (a) through (c) of this section, applicants for licensure as a specialist in school psychology must meet the requirements imposed under §501.255(a)(2) - (9) of the Psychologists' Licensing Act.
  - (e) Examinations. Applicants must take the National School Psychology Examination and obtain at least the current cut-off score for the NCSP certification before applying for licensure as a specialist in school psychology. Following approval to sit for Board exams, an applicant must take and pass the Jurisprudence Examination within the time required by Board rule §463.19.
  - (f) Trainee Status.

- (1) An applicant for the specialist in school psychology license who has not yet passed the Board's Jurisprudence Examination, but who otherwise meets all licensing requirements under this rule, may practice in the public schools under the supervision of a Licensed Specialist in School Psychology, as a trainee for not more than one year.
  - (2) A trainee status letter shall be issued to an applicant upon proof of licensing eligibility, save and except proof of passage of the Board's Jurisprudence Examination.
  - (3) An individual with trainee status is subject to all applicable laws governing the practice of psychology.
  - (4) A trainee's status shall be suspended or revoked upon a showing of probable cause of a violation of the Board's rules or any law pertaining to the practice of psychology, and the individual may be made the subject of an eligibility proceeding. The one year period for trainee status shall not be tolled by any suspension of the trainee status.
  - (5) Following official notification from the Board upon passage of the Jurisprudence Examination or the expiration of one year, whichever occurs first, an individual's trainee status shall terminate.
  - (6) An individual practicing under trainee status must be designated as a trainee.
- (g) Provision of psychological services in the public schools by unlicensed individuals.
- (1) An unlicensed individual may provide psychological services under supervision in the public schools if:
    - (A) the individual is enrolled in an internship, practicum or other site based training in a psychology program in a regionally accredited institution of higher education;
    - (B) the individual has completed an internship that meets the requirements of this rule, and has submitted an application for licensure as a Licensed Specialist in School Psychology to the Board that has not been denied, returned, or gone void under Board rule §463.2 of this title (relating to Application Process); or
    - (C) the individual has been issued a trainee status letter.
  - (2) An unlicensed individual may not provide psychological services in a private school setting unless the activities or services provided are exempt

under Section 501.004 of the Psychologists' Licensing Act.

- (3) An unlicensed individual may not engage in the practice of psychology under paragraph (1)(B) of this subsection for more than forty-five days following receipt of the application by the Board.
- (4) The authority to practice referenced in paragraphs (1)(B) and (C) of this subsection is limited to the first or initial application filed by an individual under this rule, but is not applicable to any subsequent applications filed under this rule. The Board will not issue more than one trainee status letter to an individual, regardless of the number of applications filed.

*Adopted to be effective: April 19, 2016*

*Amended: June 26, 2017; March 17, 2019*

#### **463.10. Provisionally Licensed Psychologists.**

- (a) Application Requirements.
  - (1) An application for provisional licensure as a psychologist includes, in addition to the requirements set forth in Board rule §463.5 of this title (relating to Application File Requirements), an official transcript which indicates that the applicant has received a doctoral degree in psychology. Additionally, the applicant must meet the requirements of §501.255 of the Psychologists' Licensing Act.
  - (2) An application for provisional licensure as a psychologist may be filed up to sixty days prior to the date the applicant's doctoral degree is officially conferred, but remains subject to Board rule §463.2 of this title (relating to Application Process).
- (b) Degree Requirements.
  - (1) The applicant's transcript must state that the applicant has a doctoral degree that designates a major in psychology. Additionally, the doctoral degree must be from a program accredited by the American Psychological Association or from a regionally accredited institution.
  - (2) The substantial equivalence of a doctoral degree received prior to January 1, 1979, based upon a program of studies whose content is primarily psychological means a doctoral degree based on a program which meets the following criteria:
    - (A) Post-baccalaureate program in a regionally accredited institution of higher learning. The



program must have a minimum of 90 semester hours, not more than 12 of which are credit for doctoral dissertation and not more than six of which are credit for master's thesis.

- (B) The program, wherever it may be administratively housed, must be clearly identified and labeled. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.
- (C) The program must stand as a recognizable, coherent organizational entity within the institution. A program may be within a larger administrative unit, e.g., department, area, or school.
- (D) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines. The program must have identifiable faculty and administrative heads who are psychologists responsible for the graduate program. Psychology faculty are individuals who are licensed or provisionally licensed or certified psychologists, or specialists of the American Board of Professional Psychology (ABPP), or hold a doctoral degree in psychology from a regionally accredited institution.
- (E) The program must be an integrated, organized sequence of studies, e.g., there must be identifiable curriculum tracks wherein course sequences are outlined for students.
- (F) The program must have an identifiable body of students who matriculated in the program.
- (G) The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology. The supervised field work or internship must have been a minimum of 1,500 supervised hours, obtained in not less than a 12 month period nor more than a 24 month period. Further, this requirement cannot have been obtained in more than two placements or agencies.
- (H) The curriculum shall encompass a minimum of two academic years of full-time graduate studies

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

- (I) The following curricular requirements must be met and demonstrated through appropriate course work:
  - (i) Scientific and professional ethics related to the field of psychology.
  - (ii) Research design and methodology, statistics.
  - (iii) The applicant must demonstrate competence in each of the following substantive areas. The competence standard will be met by satisfactory completion at the B level of a minimum of six graduate semester hours in each of the four content areas. It is recognized that some doctoral programs have developed special competency examinations in lieu of requiring students to complete course work in all core areas. Graduates of such programs who have not completed the necessary semester hours in these core areas must submit to the Board evidence of competency in each of the four core areas.
    - (I) Biological basis of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, psycho-pharmacology.
    - (II) Cognitive-affective basis of behavior: Learning, thinking, motivation, emotion.

- (III) Social basis of behavior: social psychology, group processes, organizational and system theory.
    - (IV) Individual differences: personality theory, human development, abnormal psychology.
  - (J) All educational programs which train persons who wish to be identified as psychologists will include course requirements in specialty areas. The applicant must demonstrate a minimum of 24 hours in his/her designated specialty area.
- (3) Any person intending to apply for provisional licensure under the substantial equivalence clause must file with the Board an affidavit showing:
  - (A) Courses meeting each of the requirements noted in paragraph (2) of this subsection verified by official transcripts;
  - (B) Information regarding each of the instructors in the courses submitted as substantially equivalent;
  - (C) Appropriate, published information from the university awarding the degree, demonstrating that in paragraph (2)(A)(J) of this subsection have been met.
- (c) An applicant for provisional licensure as a psychologist who is accredited by Certificate of Professional Qualification in Psychology (CPQ) or the National Register or who is a specialist of ABPP will have met the following requirements for provisional licensure: submission of an official transcript which indicates the date the doctoral degree in psychology was awarded or conferred, and submission of documentation of the passage of the national psychology examination at the doctoral level at the Texas cut-off score. All other requirements for provisional licensure must be met by these applicants. Additionally, these applicants must provide documentation sent directly from the qualifying entity to the Board office declaring that the applicant is a current member in the organization and has had no disciplinary action from any state or provincial health licensing board.
- (d) Trainee Status for Provisional Applicants.
  - (1) An applicant for provisional licensure who has not yet passed the EPPP and Jurisprudence Examination, but who otherwise meets all provisional licensing requirements and is seeking to acquire the supervised experience required by §501.252(b)(2) of the Psychologists' Licensing Act, may practice under the

- supervision of a Licensed Psychologist as a provisional trainee for not more than two years.
- (2) A provisional trainee status letter shall be issued to an applicant upon proof of provisional licensing eligibility, save and except proof of passage of the EPPP and Jurisprudence Examination. However, a provisional trainee status letter will not be issued to an applicant who was issued a provisional trainee status letter in connection with a prior application.
  - (3) An individual with trainee status is subject to all applicable laws governing the practice of psychology.
  - (4) A provisional trainee's status shall be suspended or revoked upon a showing of probable cause of a violation of the Board's rules or any law pertaining to the practice of psychology, and the individual may be made the subject of an eligibility proceeding. The two years period for provisional trainee status shall not be tolled by any suspension of the provisional trainee status.
  - (5) Following official notification from the Board upon passage of the EPPP and Jurisprudence Examination, or the expiration of two years, whichever occurs first, an individual's provisional trainee status shall terminate.

*Adopted to be effective: April 19, 2016*

*Amended: September 26, 2016, June 26, 2017*

**463.11. Licensed Psychologist.**

- (a) Application Requirements. An application for licensure as a psychologist includes, in addition to the requirements set forth in Board rule §463.5(1) of this title (relating to Application File Requirements):
  - (1) Documentation of active licensure as a provisionally licensed psychologist in good standing.
  - (2) Documentation of supervised experience from a licensed psychologist which satisfies the requirements of the Board. The formal internship should be documented by the Director of Internship Training when possible, but may be documented by a licensed psychologist with knowledge of the internship program and the applicant's participation in the internship program if the Director of Internship Training is unavailable.
  - (3) Documentation of licensure in other jurisdictions, including information on disciplinary action and pending complaints, sent directly to the Board.

- (b) Degree Requirements. The degree requirements for licensure as a psychologist are the same as for provisional licensure as stated in Board rule §463.10 of this title (relating to Provisionally Licensed Psychologist).
- (c) An applicant who is actively licensed as a psychologist in another jurisdiction, and who meets each of the following requirements, is considered to have met the requirements for supervised experience under this rule:
  - (1) The applicant must affirm that he or she has received at least 3,000 hours of supervised experience from a licensed psychologist in the jurisdiction where the supervision took place. At least half of those hours (a minimum of 1,500 hours) must have been completed within a formal internship, and the remaining one-half (a minimum of 1,500 hours) must have been completed after the doctoral degree was conferred or completed; and
  - (2) The applicant must submit a self-query report from the National Practitioner Data Bank (NPDB) reflecting no disciplinary history, other than disciplinary history related to continuing education or professional development. The report must be submitted with the application in the sealed envelope in which it was received from the NPDB.
- (d) Supervised Experience. In order to qualify for licensure, an applicant must submit proof of a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have been received after obtaining either provisional trainee status or provisional licensure, and at least 1,750 of which must have been obtained through a formal internship that occurred within the applicant's doctoral degree program. A formal internship completed after the doctoral degree was conferred, but otherwise meeting the requirements of this rule, will be accepted for an applicant who received his or her doctoral degree prior to September 1, 2017. Following the conferral of a doctoral degree, 1,750 hours obtained or completed while employed in the delivery of psychological services in an exempt setting; while licensed or authorized to practice in another jurisdiction; or while practicing as a psychological associate or specialist in school psychology in this state may be substituted for the minimum of 1,750 hours of supervised experience required as a provisional trainee or provisionally licensed psychologist if the experience was obtained or completed under the supervision of a licensed psychologist. Post-doctoral supervised experience obtained prior to September 1, 2016 may also be

used to satisfy, either in whole or in part, the post-doctoral supervised experience required by this subsection if the experience was obtained under the supervision of a licensed psychologist.

- (1) General. All supervised experience for licensure as a psychologist, including the formal internship, must meet the following requirements:
  - (A) Each period of supervised experience must be obtained in not more than two placements, and in not more than 24 consecutive months.
  - (B) Gaps Related to Supervised Experience.
    - (i) Unless a waiver is granted by the Board, an application for a psychologist's license will be denied if:
      - (I) a gap of more than seven years exists between the date an applicant's doctoral degree was officially conferred and the date the applicant began obtaining his or her hours of supervised experience under provisional trainee status or provisional licensure; or
      - (II) a gap of more than two years exists between the completion date of an applicant's hours of supervised experience acquired as a provisional trainee or provisionally licensed psychologist, and the date of application.
    - (ii) The Board shall grant a waiver upon a showing of good cause by the applicant. Good cause shall include, but is not limited to:
      - (I) proof of continued employment in the delivery of psychological services in an exempt setting as described in §501.004 of the Act, during any gap period;
      - (II) proof of annual professional development, which at a minimum meets the Board's professional development requirements, during any gap period;
      - (III) proof of enrollment in a course of study in a regionally accredited institution or training facility

- designed to prepare the individual for the profession of psychology during any gap period; or
- (IV) proof of licensure as a psychologist and continued employment in the delivery of psychological services in another jurisdiction.
- (C) A formal internship with rotations, or one that is part of a consortium within a doctoral program, is considered to be one placement. A consortium is composed of multiple placements that have entered into a written agreement setting forth the responsibilities and financial commitments of each participating member, for the purpose of offering a well-rounded, unified psychology training program whereby trainees work at multiple sites, but obtain training from one primary site with some experience at or exposure to aspects of the other sites that the primary site does not offer.
- (D) The supervised experience required by this rule must be obtained after official enrollment in a doctoral program.
- (E) All supervised experience must be received from a psychologist licensed at the time supervision is received.
- (F) The supervising psychologist must be trained in the area of supervision provided to the supervisee.
- (G) Experience obtained from a psychologist who is related within the second degree of affinity or consanguinity to the supervisee may not be utilized to satisfy the requirements of this rule.
- (H) All supervised experience obtained for the purpose of licensure must be conducted in accordance with all applicable Board rules.
- (I) Unless authorized by the Board, supervised experience received from a psychologist practicing with a restricted license may not be utilized to satisfy the requirements of this rule.
- (J) The supervisee shall be designated by a title that clearly indicates a supervisory licensing status such as "intern," "resident," "trainee," or "fellow." An individual who is a Provisionally Licensed Psychologist or a Licensed Psychological Associate may use his or her title so long as

those receiving psychological services are clearly informed that the individual is under the supervision of a licensed psychologist. An individual who is a Licensed Specialist in School Psychology may use his or her title so long as the supervised experience takes place within a school, and those receiving psychological services are clearly informed that the individual is under the supervision of an individual who is licensed as a psychologist and specialist in school psychology. Use of a different job title is permitted only if authorized under §501.004 of the Psychologists' Licensing Act, or another Board rule.

- (2) Formal Internship. The formal internship hours must be satisfied by one of the following types of formal internships:
  - (A) The successful completion of an internship program accredited by the American Psychological Association (APA) or Canadian Psychological Association (CPA), or which is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or
  - (B) The successful completion of an organized internship meeting all of the following criteria:
    - (i) It must constitute an organized training program which is designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose of the program must be to assure breadth and quality of training.
    - (ii) The internship agency must have a clearly designated staff psychologist who is responsible for the integrity and quality of the training program and who is actively licensed/certified by the licensing board of the jurisdiction in which the internship takes place and who is present at the training facility for a minimum of 20 hours a week.
    - (iii) The internship agency must have two or more full-time licensed psychologists on the staff as primary supervisors.
    - (iv) Internship supervision must be provided by a staff member of the internship agency



or by an affiliate of that agency who carries clinical responsibility for the cases being supervised.

- (v) The internship must provide training in a range of assessment and intervention activities conducted directly with patients/clients.
  - (vi) At least 25% of trainee's time must be in direct patient/client contact.
  - (vii) The internship must include a minimum of two hours per week of regularly scheduled formal, face-to-face individual supervision. There must also be at least four additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with psychology issues; co-therapy with a staff person including discussion; group supervision; additional individual supervision.
  - (viii) Training must be post-clerkship, post-practicum and post-externship level.
  - (ix) The internship agency must have a minimum of two full-time equivalent interns at the internship level of training during applicant's training period.
  - (x) The internship agency must inform prospective interns about the goals and content of the internship, as well as the expectations for quantity and quality of trainee's work, including expected competencies; or
- (C) The successful completion of an organized internship program in a school district meeting the following criteria:
- (i) The internship experience must be provided at or near the end of the formal training period.
  - (ii) The internship experience must require a minimum of 35 hours per week over a period of one academic year, or a minimum of 20 hours per week over a period of two consecutive academic years.
  - (iii) The internship experience must be consistent with a written plan and must

meet the specific training objectives of the program.

- (iv) The internship experience must occur in a setting appropriate to the specific training objectives of the program.
- (v) At least 600 clock hours of the internship experience must occur in a school setting and must provide a balanced exposure to regular and special educational programs.
- (vi) The internship experience must occur under conditions of appropriate supervision. Field-based internship supervisors, for the purpose of the internship that takes place in a school setting, must be licensed as a psychologist and, if a separate credential is required to practice school psychology, must have a valid credential to provide psychology in the public schools. The portion of the internship which appropriately may take place in a non-school setting must be supervised by a psychologist.
- (vii) Field-based internship supervisors must be responsible for no more than two interns at any given time. University internship supervisors shall be responsible for no more than twelve interns at any given time.
- (viii) Field-based internship supervisors must provide at least two hours per week of direct supervision for each intern. University internship supervisors must maintain an ongoing relationship with field-based internship supervisors and shall provide at least one field-based contact per semester with each intern.
- (ix) The internship site shall inform interns concerning the period of the internship and the training objectives of the program.
- (x) The internship experience must be systematically evaluated in a manner consistent with the specific training objectives of the program.
- (xi) The internship experience must be conducted in a manner consistent with

the current legal-ethical standards of the profession.

- (xii) The internship agency must have a minimum of two full-time equivalent interns at the internship level during the applicant's training period.
  - (xiii) The internship agency must have the availability of at least two full-time equivalent psychologists as primary supervisors, at least one of whom is employed full time at the agency and is a school psychologist.
- (3) Industrial/Organizational Requirements. Individuals enrolled in an Industrial/Organizational doctoral degree program are exempt from the formal internship requirement but must complete 3,500 hours of supervised experience meeting the requirements of paragraph (1) of this subsection, at least 1,750 of which must have been received as a provisional trainee or provisionally licensed psychologist. Individuals who do not undergo a formal internship pursuant to this paragraph should note that Board rules prohibit a psychologist from practicing in an area in which they do not have sufficient training and experience, of which a formal internship is considered to be an integral requirement.
- (4) Licensure Following Retraining.
- (A) In order to qualify for licensure after undergoing retraining, an applicant must demonstrate the following:
    - (i) conferral of a doctoral degree in psychology from a regionally accredited institution of higher education prior to undergoing retraining;
    - (ii) completion of a formal, accredited post-doctoral retraining program in psychology which included at least 1,750 hours in a formal internship;
    - (iii) retraining within the two year period preceding the date of application for licensure under this rule, or continuous employment in the delivery of psychological services in an exempt setting as described in §501.004 of the

Psychologists' Licensing Act since receiving their doctoral degree; and  
(iv) upon completion of the retraining program, at least 1,750 hours of supervised experience after obtaining either provisional trainee status or provisional licensure.

(B) An applicant meeting the requirements of this subsection is considered to have met the requirements for supervised experience under this rule.

*Adopted to be effective: April 19, 2016*

*Amended: December 25, 2016, March 29, 2017; December 18, 2017; September 19, 2018; March 17, 2109; September 5, 2019*

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

- (1) Submit an application and corresponding fee;
- (2) Submit written verification that the applicant is actively licensed, certified, or registered in good standing in a jurisdiction with which Texas shares reciprocity. The written verification must be sent directly to the Board from the other jurisdiction;
- (3) Submit a self-query report from the National Practitioner Data Bank (NPDB) reflecting no disciplinary history, other than disciplinary history related to continuing education or professional development. The report must be submitted with the application in the sealed envelope in which it was received from the NPDB;
- (4) Pass the jurisprudence examination;
- (5) Undergo a fingerprint based criminal history check which reflects no disqualifying criminal history; and
- (6) Submit any other documentation or information requested in the application or which the Board may deem necessary in order to ensure the public's safety when processing the application.

*Adopted to be effective: July 5, 2018*

**463.14. Written Examinations.**

- (a) Jurisprudence Examination. All applicants for licensure by the Board are required to pass the Jurisprudence Examination prior to licensure.
- (b) Examination in School Psychology. Applicants for licensure as a specialist in school psychology must take the National

School Psychology Examination administered by the Educational Testing Service and obtain at least the current cut-off score for the National Certified School Psychologist before applying for the Licensed Specialist in School Psychology.

- (c) Examination for Professional Practice in Psychology. All applicants for licensure as a psychological associate, provisional licensure as a psychologist, or licensure as a psychologist are required to pass the Examination for Professional Practice in Psychology (EPPP) prior to the Board granting licenses.
- (d) Applicants Having Previously Taken the EPPP. An applicant for licensure who has taken the EPPP either in the past or in another jurisdiction will not be required to retake the exam provided that:
  - (1) the applicant's score satisfies the Board's current minimum acceptable score for licensure; and
  - (2) the applicant can demonstrate that he/she has remained professionally involved in psychology; i.e., at least half-time professional employment and/or academic enrollment in a regionally accredited educational institution.
- (e) Cutoff Scores for the EPPP. The minimum acceptable score for the EPPP is seventy percent (70%) of questions scored on the pencil and paper version of the test. For computer-delivered EPPP examinations, the cutoff scaled scores is 500.
- (f) Cutoff Scores for the Jurisprudence Examination. The minimum acceptable score for the jurisprudence examination for all licensure applicants is ninety percent (90%).

*Adopted to be effective: October 3, 1999*

*Amended: December 18, 2000; July 8, 2001; February 21, 2002; September 12, 2002; August 19, 2004; June 5, 2008; December 18, 2017*

**463.16. Disclosure of Examination Information.** It is a violation of Board rules for any applicant or licensee to disclose any information about the contents or administration of the Board's examinations that could affect the validity of the examination.

*Adopted to be effective: October 3, 1999*

**463.17. Rescheduling of Examination Due to Religious Holy Day.**

- (a) Applicants wishing to observe a religious holy day on which their religious beliefs prevent them from taking an examination scheduled by the Board on that religious holy day will be allowed to take the examination on an alternate date.

- (b) Applicants wishing to take an examination scheduled on a religious holy day on an alternate date must submit a written request to take the examination on an alternate date and state the religious holy day they wish to observe. Applicants must submit their written request prior to being scheduled for an examination.
- (c) The Board may extend the time period for completing Board examinations set forth in Board rule §463.19 of this title (relating to Time Limit on Examination Failures and Passing Scores), as needed when scheduling an alternate examination date.

*Adopted to be effective: October 6, 2015*

**463.18. Failing Written Examinations.** Applicants who fail the written examinations are permitted to take them again by paying additional examination fees.

*Adopted to be effective: October 3, 1999*

*Amended: November 29, 2001; June 5, 2008; July 5, 2018*

**463.19. Time Limit on Examination Failures and Passing Scores.**

- (a) Applicants must successfully pass all examinations required of them within two years from the date they are approved by the Board to sit for the exams.
- (b) For the purpose of fulfilling application requirements for licensure, a passing score on the Board's Jurisprudence Examination is valid for only four years, unless the applicant has other active licensure with the Board at the time the application is received by the Board.

*Adopted to be effective: October 3, 1999*

*Amended: November 29, 2001; July 5, 2018*

**463.20. Refunds and Transfers of Application and Examination Fees.**

- (a) Application fees are non-refundable and non-transferable.
- (b) The Jurisprudence Examination fee may be transferred to a subsequent examination when an applicant fails to timely complete the examination, if an applicant makes a written request for a transfer and provides the Board with documentation demonstrating good cause for why the applicant failed to timely complete the examination. Upon written request and showing of good cause, the Board shall excuse the applicant's failure to timely complete the examination, and allow the Board's portion of the examination fee to be applied, one time only, toward a subsequent examination. The Applicant, however, must pay that portion of the examination fee attributable to the third-

party vendor administering the online examination, before they will be allowed to retake the examination.

*Adopted to be effective: September 1, 2003*

*Amended: September 26, 2013; September 2014; December 27, 2015; July 5, 2018*

**463.21. Board Members as Reviewers of Examination.** All Board members serve as reviewers of written examination materials and procedures unless a member is matriculated in a graduate program in psychology or is related within the second degree of affinity or within the second degree of consanguinity to a person who matriculated in a graduate program in psychology.

*Adopted to be effective: October 3, 1999*

*Amended: June 5, 2008; July 5, 2018*

**463.22. Reinstatement of a License.**

- (a) A person whose license to practice psychology has expired or been retired, revoked, or resigned, may apply for reinstatement of the license. A person seeking re-licensure must apply for reinstatement, rather than applying for a new license.
- (b) An application for reinstatement shall be in writing and in the form prescribed by the Board.
- (c) In the case of revocation or resignation, application for reinstatement shall not be made prior to one year after the effective date of the revocation or resignation or prior to any time period specified in the order of revocation or resignation.
- (d) The Board may approve or deny an application for reinstatement, and in the case of a denial, the Board may also set a reasonable time period that must elapse before another application may be filed. The Board may also impose reasonable terms and conditions that an applicant must satisfy before reinstatement of an unrestricted license.
- (e) A person seeking reinstatement of a license shall appear before the Board in person to answer any questions or address any concerns raised by his or her application if requested by a board member or the executive director. Failure to comply with this paragraph shall constitute grounds for denial of the application for reinstatement.
- (f) An application for reinstatement of an expired, retired, revoked, or resigned license may be granted upon proof of each of the following:
  - (1) payment of the application fee;
  - (2) submission of a self-query report from the National

- Practitioner Data Bank (NPDB). The report must be submitted with the application in the sealed envelope in which it was received from the NPDB;
- (3) passage of the jurisprudence examination;
  - (4) a fingerprint based criminal history check which reflects no disqualifying criminal history; and
  - (5) submission of any other documentation or information requested in the application or which the Board may deem necessary in order to ensure the public's safety when processing the application.
- (g) An applicant seeking reinstatement of a license that has been retired or expired for five years or more or a license that has been revoked or resigned, must also demonstrate completion of at least forty hours of professional development within the twenty-four month period preceding the date of application. The professional development must meet the requirements of Board rule §461.11 of this title (relating to Professional Development).
- (h) The Board will evaluate each of the following criteria when considering reinstatement of an expired, revoked, or resigned license:
- (1) the circumstances surrounding the expiration, revocation, or resignation of the license;
  - (2) the conduct of the applicant subsequent to the expiration, revocation, or resignation of the license;
  - (3) the lapse of time since the expiration, revocation, or resignation of the license;
  - (4) compliance with all terms and conditions imposed by the Board in any previous board order; and
  - (5) the applicant's present qualification to practice psychology based on his or her history of psychology-related employment, service, education, or training, as well as his or her professional development in psychology since the expiration, revocation, or resignation of the license.
- (i) Notwithstanding time limits on original applications and examinations found elsewhere in Board rules, an applicant seeking reinstatement of a license must submit all required documentation and information, and successfully pass the jurisprudence examination within the 180 day time period specified by the Board. Failure to do so shall result in the application for reinstatement expiring. The Board will send each applicant a letter specifying the 180 day time period upon receipt of a completed application for reinstatement and application fee.

*Adopted to be effective: June 24, 2019*



**463.23. Criteria for Examination Consultants.** The Board may employ licensees to act as consultants for purposes of developing and administering the Jurisprudence Examination. All such consultants shall be considered as agents of the Board. To be eligible to serve as a consultant for an examination, an individual must:

- (1) Be currently licensed by the Board and must have three years of experience in their area of expertise as a licensee;
- (2) Not be related within the second degree of affinity (marriage) or consanguinity (blood relationship) to an individual who has applied to take the examination;
- (3) Have no restrictions or pending complaints against his/her license; and
- (4) Be approved by the Board.

*Adopted to be effective: October 3, 1999*

*Amended: January 1, 2015; July 5, 2018*

**463.25. Foreign Graduates.**

- (a) Prior to submitting an application for licensure, the potential applicant shall provide the Board with documents and evidence to establish that his/her formal education is equivalent to a masters or doctoral degree, as required by the Psychologists' Licensing Act and Rules and Regulations of the Board, granted by a United States university that is regionally accredited. The registrar of the University of Texas at Austin must certify that, after reviewing the required documentation, the degree is equivalent to a masters or doctoral degree granted from a regionally accredited educational institution. The potential applicant shall provide the Board with the following:
  - (1) An original or certified copy of a diploma or other certificate of graduation, which will be returned, and a photostatic copy of such a document, which shall be retained.
  - (2) A transcript or comparable document of all course work completed.
  - (3) A certified translation of all documents submitted in a language other than English.
  - (4) Satisfactory evidence of supervised experience.
  - (5) Evidence that the doctoral dissertation was primarily psychological in nature. In its discretion, the Board may require an applicant to file a copy of the dissertation itself.

- (6) A statement prepared by the applicant based on the documents referred to in this section, indicating the chronological sequence of studies and research. The format of this statement shall be as comparable as possible to a transcript issued by American universities.
- (7) A check or money order made payable to the University of Texas at Austin to cover the cost of reviewing the required documentation. The fee for this service is set by the University of Texas at Austin.
- (b) After receiving formal notification from the University of Texas at Austin that the potential applicant's formal education is equivalent to a masters or doctoral degree from a regionally accredited educational institution in the United States the Board will notify the potential applicant of the equivalency of his/her academic degree and will then accept a formal application for licensure.

*Adopted to be effective: October 3, 1999*

*Amended: December 9, 2003*

**463.26. Health Service Provider in Psychology Specialty Certification.**

- (a) Health Service Provider (HSP) in Psychology is a specialty certification from the Board available to Texas licensed psychologists who are listed in the National Register of Health Service Providers. The National Register defines a health service provider as one who is trained and experienced in the delivery of direct, preventive, assessment, and therapeutic intervention services to individuals whose growth, adjustment, or functioning is impaired, or to individuals who otherwise seek services. This credential does not constitute a license to practice psychology under the Act. The Board will continue to recognize all individuals who were certified as HSP by the Board prior to January 1, 1998, and who remain in good standing.
- (b) Requirements for this credential as of January 1, 1998, are:
  - (1) Current, active licensure by the Board as a psychologist; and
  - (2) Documentation submitted directly to the Board from the National Register of HSP in Psychology that the applicant is currently designated as an HSP with the National Register.
  - (3) Active status as an HSP in psychology requires annual renewal and payment of an annual renewal fee. After one year, if the licensee fails to renew this specialty certification, it is void. To obtain specialty certification again, reapplication is required.

**463.27. Temporary License for Persons Licensed in Other States.**

- (a) A temporary license may be issued to an applicant seeking to practice in this state for a limited time and purpose, such as serving as an expert witness in court or assisting a patient with transitioning to a mental health practitioner in Texas. To be eligible for temporary licensure, an applicant must:
  - (1) submit a completed application for temporary licensure, setting forth a brief description of the type of psychological services to be provided;
  - (2) pay the application fee;
  - (3) submit proof that the applicant is actively licensed, certified, or registered as a psychologist or psychological associate by another jurisdiction having requirements substantially equal to those prescribed by the Psychologists' Licensing Act;
  - (4) submit documentation directly from the jurisdiction in which the applicant is licensed indicating that the applicant is in good standing with that jurisdiction;
  - (5) be supervised (sponsorship) by a psychologist licensed in this state; and
  - (6) provide documentation that the applicant has passed the Examination for Professional Practice of Psychology at the Texas cut-off for the type of temporary license sought.
- (b) Substantial equivalency of another jurisdiction's requirements may be documented by the applicant providing a copy of the other jurisdiction's regulations with the pertinent sections highlighted to indicate training and exam requirements for a particular type of license. The material is then reviewed for substantial equivalency by the Board. An applicant need not demonstrate substantial equivalency if the applicant is licensed in a jurisdiction with which the Board has reciprocity.
- (c) Applicants for temporary licensure who hold a current Certificate of Professional Qualification in Psychology, status as a National Health Service Provider, or designation as a specialist from the American Board of Professional Psychology may have documentation from the credentialing entity sent directly to the Board as compliance with and in lieu of subsection (a)(3) and (6) of this section.
- (d) For a psychologist practicing under a temporary license issued pursuant to this rule, the supervision required by subsection (a)(5) of this section shall consist of sponsorship

by a psychologist licensed in this state. The sponsoring psychologist must be available for consultation with the temporary licensee, but otherwise has no supervisory responsibility for the temporary license holder or the services provided under the temporary license.

- (e) Applicants meeting the requirements for temporary licensure shall be granted a temporary license authorizing the delivery of psychological services for no more than thirty days. Upon utilization of the full thirty days, or the expiration of one year from the date of licensure, whichever occurs first, the temporary license shall expire.
- (f) A temporary licensee must submit written notification to the Board of the dates he or she intends to deliver psychological services in this state, at least 24 hours prior to the delivery of those services. Psychological services may not be provided in this state under a temporary license on any date not approved by the Board.
- (g) Temporary licensees are subject to all applicable laws governing the practice of psychology in this state, including the Psychologists' Licensing Act and Board rules.
- (h) An applicant for permanent licensure in this state is not eligible for temporary licensure. Upon receipt of an application for permanent licensure by a temporary license holder, any temporary license held by an applicant shall expire without further action or notice by the Board.
- (i) A temporary license holder may not apply for another temporary license until the expiration of one year from the date of issuance of their last temporary license, regardless of whether that license is active or expired.
- (j) A temporary license holder delivering psychological services while situated in this state, must display a copy of his or her temporary license, unless otherwise prohibited or it would be impractical to do so.

*Adopted to be effective: June 24, 2015*

*Amended: December 18, 2017; December 18, 2018*

**463.28. Emergency Limited Temporary License.**

- (a) The Board may issue an emergency limited temporary license to practice psychology if:
  - (1) the Governor declares a disaster under §418.014 of the Government Code and issues a proclamation in accordance with §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;

- (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
  - (3) the applicant meets the requirements set forth herein below.
- (b) An emergency limited temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (c) An emergency limited temporary license issued pursuant to this rule is valid only for the practice of psychology within the disaster area designated by the governor.
- (d) To be eligible for an emergency limited temporary license to practice psychology, an applicant must:
  - (1) submit an application on a board-approved form;
  - (2) submit written verification that the applicant is actively licensed, certified, or registered as a psychologist, psychological associate, or specialist in school psychology and in good standing in another jurisdiction.
- (e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on your out-of-state psychology license(s).
- (f) An emergency limited temporary license may be renewed for an additional thirty (30) day period if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- (g) An individual practicing under an emergency limited temporary license must:
  - (1) display a copy of his or her emergency limited temporary license in a conspicuous location when delivering psychological services, or provide written notification of the license number and instructions on how to verify the status of a license when obtaining informed consent;
  - (2) provide notification to the public in a manner consistent with Board rule §469.2 of this title (relating to Public Complaint Notification Statement), that complaints can be filed with the Board; and
  - (3) comply with all other applicable board rules.
- (h) There will be no fee associated with the application, issuance, or renewal of an emergency limited temporary license.

*Adopted to be effective: December 18, 2018*

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

- (1) whether the jurisdiction's qualifications for licensure are substantially equal to the requirements for a comparable license under the Psychologists' Licensing Act;
- (2) whether a jurisdiction will license an applicant who would be ineligible for licensure in Texas due to a criminal history;
- (3) whether the jurisdiction's cut-off score on a mutually required examination meets or exceeds the Texas cut-off score; and
- (4) whether the jurisdiction's supervised experience requirements for a particular license provide a measure of public protection, which at a minimum is substantially equal to the supervised experience requirements for a comparable license under the Psychologists' Licensing Act.

*Adopted to be effective: December 18, 2017*

**463.30. Licensing of Military Service Members, Veterans and Spouses.**

- (a) Military Service Members, Veterans and Spouses.
  - (1) A license may be issued to a military service member, military veteran, or military spouse, as those terms are defined by Chapter 55, Occupations Code, provided that the following documentation is provided to the Board:
    - (A) if the applicant is a military spouse, proof of marriage to a military service member; and
    - (B) proof that the applicant holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state; or
    - (C) proof that within the five years preceding the application date, the spouse held the license in Texas.
  - (2) An applicant applying for licensure under paragraph (1) of this subsection must provide documentation from all other jurisdictions in which the applicant is licensed that indicate that the applicant has received

no disciplinary action from those jurisdictions regarding a mental health license.

- (3) As part of the application process, the Executive Director may waive any prerequisite for obtaining a license under this rule, other than paragraph (1)(B) and (C) of this subsection and the jurisprudence examination, if it is determined that the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought. When making this determination, the Executive Director must consult with the Board's Applications Committee and consider the committee's input and recommendations. In the event the Executive Director does not follow a recommendation of the Applications Committee, he or she must submit a written explanation to the Applications Committee explaining why its recommendation was not followed. No waiver may be granted where a military service member or military veteran holds a license issued by another jurisdiction that has been restricted, or where the applicant has an unacceptable criminal history.
- (4) Alternative demonstrations of competency to meet the requirements for licensure. The following provisions provide alternative demonstrations of competency to the Board's licensing standards.
  - (A) Licensed Specialist in School Psychology. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, and evidence of the required coursework or National Association of School Psychologists certification, and passage of the National School Psychology Examination. All other requirements for licensure are still required.
  - (B) Licensed Psychological Associate. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, 450 internship hours, and passage of the Examination for Professional Practice in Psychology (EPPP) at the Texas cut-off. All other requirements for licensure are still required.

- (C) Provisionally Licensed Psychologist. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, and passage of the EPPP at the Texas cut-off. All other requirements for licensure are still required.
  - (D) Licensed Psychologist. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: two years of supervised experience. All other requirements for licensure, including the requirements of this paragraph, are still required.
- (5) Determination of substantial equivalency for licensing requirements in another state. The applicant must provide to the Board proof that the state in which the applicant is licensed has standards for licensure that are substantially equivalent to the requirements of this Board for the applicable license type:
- (A) Licensed Specialist in School Psychology.
    - (i) The completion of a training program in school psychology approved/accredited by the American Psychological Association or the National Association of School Psychologists or a master's degree in psychology with specific course work as set forth in Board rule §463.9 of this title (relating to Licensed Specialist in School Psychology); and
    - (ii) Passage of the National School Psychology Examination.
  - (B) Licensed Psychological Associate.
    - (i) Graduate degree that is primarily psychological in nature and consisting of at least 42 semester credit hours in total with at least 27 semester credit hours in psychology courses;
    - (ii) Passage of the EPPP at the Texas cut-off score; and
    - (iii) A minimum of 6 semester credit hours of practicum, internship, or experience in psychology, under the supervision of a licensed psychologist.
  - (C) Provisionally Licensed Psychologist.



- (i) Doctoral degree in psychology; and
    - (ii) Passage of the EPPP at the Texas cut-off score.
  - (D) Licensed Psychologist.
    - (i) Doctoral degree in psychology;
    - (ii) Passage of the EPPP at the Texas cut-off score; and
    - (iii) Two years or a minimum of 3,000 hours of supervised experience under a licensed psychologist.
- (6) Renewal of License Issued to Military Service Members, Veterans, and Spouses. A license issued pursuant to this rule shall remain active until the last day of the licensee's birth month following a period of one year from the date of issuance of the license, at which time it will be subject to all renewal requirements.
- (b) Applicants with Military Experience.
  - (1) A military service member or military veteran, as defined by Chapter 55, Occupations Code, shall receive credit toward the following licensing requirements for verified military service, training, or education:
    - (A) Licensed Specialist in School Psychology. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year, is considered to have met the following requirements for this type of license: a practicum and 600 internship hours. All other requirements for licensure are still required.
    - (B) Licensed Psychological Associate. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year, is considered to have met the following requirements for this type of license: 1,750 hours of supervised experience. All other requirements for licensure are still required.
    - (C) Licensed Psychologist. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year following conferral of a doctoral degree, is

considered to have met the following requirements for this type of license: one year or a minimum of 1,750 hours of supervised experience. All other requirements for licensure are still required.

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

*Adopted to be effective: March 19, 2012*

*Amended: March 23, 2014; June 24, 2015; April 19, 2016; September 26, 2017; April 10, 2018*

**463.31. Use of Other Mental Health Licensing During Practicum, Internship, or Supervised Experience.**

- (a) An individual who holds a mental health license, other than one issued by this Board, may not obtain the required practicum, internship, or supervised experience required for a license with this Board while practicing under that license. During the documented hours of the practicum, internship, or supervised experience, the individual may provide psychological services only under the authority of a qualified supervisor of the practicum, internship, or supervised experience.
- (b) An individual subject to subsection (a) must comply with the Psychologists' Licensing Act and all applicable Board rules regarding the use of appropriate titles.

*Adopted to be effective: September 19, 2012*

*Amended: September 26, 2013; January 1, 2015*

## RULES OF PRACTICE

- 465.1. Definitions.** The following terms have the following meanings:
- (1) "Adoption evaluation" has the same meaning as assigned by Tex. Fam. Code Ann. §107.151.
  - (2) "Child custody evaluation" has the same meaning as assigned by Tex. Fam. Code Ann. §107.101.
  - (3) "Client" means a party other than a patient seeking or obtaining psychological services, as defined in §501.003 of the Occupations Code, for a third-party with the goal of assisting or caring for that third-party or answering a referral question through the use of forensic psychological services.
  - (4) "Dual Relationship" means a situation where a licensee and another individual have both a professional relationship and a non-professional relationship. Dual relationships include, but are not limited to, personal friendships, business or financial interactions, mutual club or social group activities, family or marital ties, or sexual relationships.
  - (5) "Forensic evaluation" is an evaluation conducted, not for the purpose of providing mental health treatment, but rather at the request of a court, a federal, state, or local governmental entity, an attorney, or an administrative body including federal and private disability benefits providers to assist in addressing a forensic referral question.
  - (6) "Forensic psychological services" are services involving courts, legal claims, or the legal system. The provision of forensic psychological services includes any and all preliminary and exploratory services, testing, assessments, evaluations, interviews, examinations, depositions, oral or written reports, live or recorded testimony, or any psychological service provided by a licensee concerning a current or potential legal case at the request of a party or potential party, an attorney for a party, or a court, or any other individual or entity, regardless of whether the licensee ultimately provides a report or testimony that is utilized in a legal proceeding. However, forensic psychological services do not include evaluations, proceedings, or hearings under the Individuals with Disabilities Education Improvement Act (IDEIA).

- (7) "Informed Consent" means the written documented consent of the patient, client and other recipients of psychological services only after the patient, client or other recipient has been made aware of the purpose and nature of the services to be provided, including but not limited to: the specific goals of the services; the procedures to be utilized to deliver the services; possible side effects of the services, if applicable; alternate choices to the services, if applicable; the possible duration of the services; the confidentiality of and relevant limits thereto; all financial policies, including the cost and methods of payment; and any provisions for cancellation of and payments for missed appointments; and right of access of the patient, client or other recipient to the records of the services.
- (8) "Licensee" means a licensed psychologist, provisionally licensed psychologist, licensed psychological associate, licensed specialist in school psychology, applicants to the Board, and any other individual whom the Board has the authority to discipline under these Rules.
- (9) "Patient" means a person who receives psychological services, as defined in §501.003 of the Occupations Code, regardless of whether the patient or a third-party pays for the services. The term "patient" shall include a client if the client is a person listed in §611.004(a)(4) or (5) of the Health and Safety Code who is acting on a patient's behalf. A person who is the subject of a forensic evaluation is not considered to be a patient under these rules.
- (10) "Private school" has the same meaning as assigned by §5.001 of the Texas Education Code, but does not include a parent or legal guardian who chooses to homeschool a child.
- (11) "Professional relationship" means a fiduciary relationship between a licensee and a patient or client involving communications and records deemed confidential under §611.002 of the Health and Safety Code. A professional relationship also exists where licensees are appointed by a court or other governmental body to answer a referral question through the use of forensic psychological services.
- (12) "Professional standards" are determined by the Board through its rules, regulations, policies and any other sources adopted by the Board.
- (13) "Provision of psychological services" means any use by a licensee of his or her education or training in

- psychology in the context of a professional relationship. Psychological services include, but are not limited to, therapy, diagnosis, testing, assessments, evaluation, treatment, counseling, supervision, consultation, providing forensic opinions, rendering a professional opinion, performing research, or teaching to an individual, group, or organization.
- (14) "Public school" means any state agency, regional education service center, diploma program, school district, or charter school established or authorized under Title 2 of the Texas Education Code and supported in whole or in part by state tax funds.
- (15) "Recognized member of the clergy," as used in §501.004(a)(4) of the Act, means a member in good standing of and accountable to a denomination, church, sect or religious organization legally recognized under the Internal Revenue Code, §501(c)(3).
- (16) "Records" are any information, regardless of the format in which it is maintained, that can be used to document the delivery, progress or results of any psychological services including, but not limited to, data identifying a recipient of services, dates of services, types of services, informed consents, fees and fee schedules, assessments, treatment plans, consultations, session notes, reports, release forms obtained from a client or patient or any other individual or entity, and records concerning a patient or client obtained by the licensee from other sources.
- (17) "Report" includes any written or oral assessment, recommendation, psychological diagnostic or evaluative statement containing the professional judgment or opinion of a licensee.
- (18) "Supervision" refers to direct, systematic professional oversight of individuals who provide psychological services under the authority of a supervising licensee, whereby the supervisor has the responsibility and ability to monitor and control the psychological services provided to ensure the patient's or client's best interests are met and that the public is protected. In the context of psychological training and education, "supervision" also refers to the formal provision of systematic education and training for purposes of licensure or competency that serves to assist individuals with gaining experience and developing the skills necessary for licensure or competent practice in

a particular practice area. However, the term "supervision" does not apply to the supervision of purely administrative or employment matters.

- (19) "Test data" refers to a patient's specific answers to test materials, whether spoken or written, generated in drawings, or recorded by computers or other lab devices.
- (20) "Test materials" refers to test booklets, forms, manuals, instruments, protocols, software, as well as test questions, and stimuli protected by federal copyright law and used in psychological testing to generate test results and test reports.

*Adopted to be effective: June 3, 1999*

*Amended: December 2, 1999; September 12, 2002; March 5, 2003; May 30, 2007; December 7, 2008; September 28, 2011; December 27, 2015; April 19, 2016; September 26, 2017; July 5, 2018; December 18, 2018*

## **465.2. Supervision.**

- (a) Supervision in General. The following rules apply to all supervisory relationships.
  - (1) A licensee is responsible for the supervision of all individuals that the licensee employs or utilizes to provide psychological services of any kind.
  - (2) Licensees ensure that their supervisees have legal authority to provide psychological services.
  - (3) Licensees delegate only those responsibilities that supervisees may legally and competently perform.
  - (4) All individuals who receive psychological services requiring informed consent from an individual under supervision must be informed in writing of the supervisory status of the individual and how the patient or client may contact the supervising licensee directly.
  - (5) All materials relating to the practice of psychology, upon which the supervisee's name or signature appears, must indicate the supervisory status of the supervisee. Supervisory status must be indicated by one of the following:
    - (A) Supervised by (name of supervising licensee);
    - (B) Under the supervision of (name of supervising licensee);
    - (C) The following persons are under the supervision of (name of supervising licensee); or
    - (D) Supervisee of (name of supervising licensee).
  - (6) Licensees provide an adequate level of supervision to all individuals under their supervision according to

- accepted professional standards given the experience, skill and training of the supervisee, the availability of other qualified licensees for consultation, and the type of psychological services being provided.
- (7) Licensees utilize methods of supervision that enable the licensee to monitor all delegated services for legal, competent, and ethical performance. Methods of supervision may include remote or electronic means if:
    - (A) adequate supervision can be provided through remote or electronic means;
    - (B) the difficulties in providing full-time in-person supervision place an unreasonable burden on the delivery of psychological services; and
    - (C) no more than fifty percent of the supervision takes place through remote or electronic means.
  - (8) Licensees must be competent to perform any psychological services being provided under their supervision.
  - (9) Licensees shall document their supervision activities in writing, including any remote or electronic supervision provided. Documentation shall include the dates, times, and length of supervision.
  - (10) Licensees may only supervise the number of supervisees for which they can provide adequate supervision.
- (b) Supervision of Students, Interns, Residents, Fellows, and Trainees. The following rules apply to all supervisory relationships involving students, interns, residents, fellows, and trainees.
- (1) Unlicensed individuals providing psychological services pursuant to §§501.004(a)(2), 501.252(b)(2), or 501.260(b)(3) of the Act must be under the supervision of a qualified supervising licensee at all times.
  - (2) Supervision must be provided by a qualified supervising licensee before it will be accepted for licensure purposes.
  - (3) A licensee practicing under a restricted status license is not qualified to, and shall not provide supervision for a person seeking to fulfill internship or practicum requirements, or a person seeking licensure under the Psychologists' Licensing Act, regardless of the setting in which the supervision takes place, unless authorized to do so by the Board. A licensee shall inform all supervisees of any Board order restricting their license and assist the supervisees with finding appropriate alternate supervision.

- (4) A supervisor must document in writing their supervisee's performance during a practicum, internship, or period of supervised experience required for licensure. The supervisor must provide this documentation to the supervisee.
  - (5) An individual subject to this subsection may allow a supervisee, as part of a required practicum, internship, or period of supervised experience required for licensure with this Board, to supervise others in the delivery of psychological services.
  - (6) For provisional trainees, a supervisor must provide at least one hour of individual supervision per week and may reduce the amount of weekly supervision on a proportional basis for provisional trainees working less than full-time.
  - (7) Licensees may not supervise an individual to whom they are related within the second degree of affinity or consanguinity.
- (c) Supervision of Provisionally Licensed Psychologists and Licensed Psychological Associates. The following rules apply to all supervisory relationships involving Provisionally Licensed Psychologists and Licensed Psychological Associates.
- (1) Provisionally Licensed Psychologists must be under the supervision of a Licensed Psychologist and may not engage in independent practice.
  - (2) A Provisionally Licensed Psychologist who is licensed in another state to independently practice psychology and is in good standing in that state, and who has applied for licensure as a psychologist may during the time that the Board is processing the applicant's application for licensure as a psychologist, practice psychology without supervision. However, upon notification from the Board that an applicant has not met the qualifications for licensure as a psychologist, the provisionally licensed psychologists must obtain supervision within 30 days in order to continue to practice.
  - (3) A provisionally licensed psychologist may, as part of a period of supervised experience required for full licensure with this Board, supervise others in the delivery of psychological services.
  - (4) A supervisor must provide at least one hour of individual supervision per week. A supervisor may reduce the amount of weekly supervision on a



proportional basis for supervisees working less than full-time.

- (d) Supervision of Licensed Specialists in School Psychology interns and trainees. The following rules apply to all supervisory relationships involving Licensed Specialists in School Psychology, as well as all interns and trainees working toward licensure as a specialist in school psychology.
- (1) A supervisor must provide an LSSP trainee with at least one hour of supervision per week, with no more than half being group supervision. A supervisor may reduce the amount of weekly supervision on a proportional basis for trainees working less than full-time.
  - (2) Supervision within the public schools may only be provided by a Licensed Specialist in School Psychology, who has a minimum of three years of experience providing psychological services within the public school system without supervision. To qualify, a licensee must be able to show proof of their license, credential, or authority to provide unsupervised school psychological services in the jurisdiction where those services were provided, along with documentation from the public school(s) evidencing delivery of those services.
  - (3) Supervisors must sign educational documents completed for students by the supervisee, including student evaluation reports, or similar professional reports to consumers, other professionals, or other audiences. It is not a violation of this rule if supervisors do not sign documents completed by a committee reflecting the deliberations of an educational meeting for an individual student which the supervisee attended and participated in as part of the legal proceedings required by federal and state education laws, unless the supervisor also attended and participated in such meeting.
  - (4) Supervisors shall document all supervision sessions. This documentation must include information about the duration of sessions, as well as the focus of discussion or training. The documentation must also include information regarding:
    - (A) any contracts or service agreements between the public school district and university school psychology training program;

- (B) any contracts or service agreements between the public school district and the supervisee;
  - (C) the supervisee's professional liability insurance coverage, if any;
  - (D) any training logs required by the school psychology training program; and
  - (E) the supervisee's trainee or licensure status.
- (5) Supervisors must ensure that each individual completing any portion of the internship required by Board rule §463.9, is provided with a written agreement that includes a clear statement of the expectations, duties, and responsibilities of each party, including the total hours to be performed by the intern, benefits and support to be provided by the supervisor, and the process by which the intern will be supervised and evaluated.
- (6) Supervisors must ensure that supervisees have access to a process for addressing serious concerns regarding a supervisee's performance. The process must protect the rights of clients to receive quality services, assure adequate feedback and opportunities for improvement to the supervisee, and ensure due process protection in cases of possible termination of the supervisory relationship.
- (e) The various parts of this rule should be construed, if possible, so that effect is given to each part. However, where a general provision conflicts with a more specific provision, the specific provision shall control.

*Adopted to be effective: April 16, 2016*

*Amended: September 26, 2016; December 18, 2017*

**465.3. Providers of Psychological Services.**

- (a) Psychologists shall employ or utilize an individual to provide psychological services, in any setting not specifically exempt under §501.004(a)(1) of the Psychologists' Licensing Act (the Act), only if:
- (1) The individual is licensed by this Board; or
  - (2) The individual is specifically exempted from licensure requirements by §501.004(a)(2) of the Act, relating to provision of services as part of a supervised course of study by students, residents or interns pursuing a course of study in a recognized training institution or facility; or,
  - (3) The individual is engaged in post-doctoral supervision for purposes of satisfying §501.252(b)(2) of the Act; or

- (4) The individual is completing supervised experience for purposes of satisfying §501.260(b)(3) of the Act, relating to Licensed Specialist in School Psychology; or
  - (5) The individual is completing supervised experience for purposes of satisfying the requirements to become a licensed professional listed in §501.004(b) of the Act.
- (b) Licensees who contract either individually or with a third-party contract provider to provide psychological services in settings where the Act does not apply pursuant to §501.004 of the Act ("exempt" settings) are not themselves exempt from the Act. In some cases, a licensee may have to follow state or federal guidelines or laws that conflict with Board rules. In those cases, the conflicting guidelines or laws supersede Board rules.

*Adopted to be effective: September 4, 1997*

*Amended: June 3, 1999; March 13, 2000; September 13, 2001; March 5, 2003; September 10, 2007; June 5, 2008; April 19, 2016; September 26, 2017*

**465.4. Employment of Individuals Not Licensed by This Board.**

- (a) **Individuals Licensed in Another Profession.** Psychologists may employ or utilize individuals who are licensed members of another profession to provide only activities or services permitted by the applicable license or licenses held by that individual. In addition, a Board licensee may supervise a licensed member of another profession to the extent permissible by the other profession's statute and regulations. Any service provided by the licensed member of another profession may not be described or represented to the patient or client as psychological services, and the individual must be clearly identified to the patient or client as a licensee of the applicable profession who is providing services pursuant to that individual's own license.
- (b) **Unlicensed, Non-Exempt Individuals.** Psychologists may employ unlicensed, non-exempt individuals only to perform services which do not constitute the practice of psychology or the activities and services of another licensed profession. Permissible duties include:
  - (1) Secretarial and clerical duties such as scheduling appointments or processing insurance forms;
  - (2) Data gathering, such as administering, proctoring, or scoring non-projective tests, obtaining histories or obtaining documentation for record keeping purposes, provided that it does not require psychological education or involve the provision of psychological services; and

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

*Adopted to be effective: September 4, 1997*  
*Amended: November 29, 2001; May 30, 2007*

**465.5. Practice in Psychology.**

- (a) Multiple Licensure.
  - (1) Multiple licenses regulated by the Board are treated as one for purposes of Board discipline. Any complaint or disciplinary action under these rules is directed to the licensee's psychology practice as a whole, and applies to all Board-issued licenses held by a licensee.
  - (2) Multiple licenses including those governed by other entities. Licensees offering services outside the practice of psychology must avoid confusing or misleading clients by clearly identifying the license(s) under which services are being delivered. If a licensee holds more than one active license under which the licensee provides such services as counseling and psychotherapy in addition to psychological services, the licensee must obtain documented informed consent showing that the patient understands which license governs which services delivered to the patient at all times.
- (b) Practice of Psychology. The following activities are covered by the definition of the "provision of psychological services" in Board Rule §465.1(10). This list is not intended to be exhaustive, but includes examples of the activities that, when performed by a licensee, are subject to Board Rules:
  - (1) conducting or administering testing that requires the use of psychological education, training, knowledge, or skills;
  - (2) the provision of biofeedback when such provision involves the use of education, training, skills, or knowledge in psychology;
  - (3) projective techniques, including, but not limited to, Rorschach, Thematic Apperception Test, Roberts Apperception Test, Sentence Completion tests and Holtzman Ink Blot;

- (4) career and vocational counseling;
- (5) the practice of hypnosis and hypnotherapy for health care purposes;
- (6) marriage and family counseling and therapy; and
- (7) alcohol and substance abuse treatment.

*Adopted to be effective: September 13, 2001*

*Amended: May 30, 2007*

**465.6. Public Statements, Advertisements, and Specialty Titles.**

- (a) Public Statements and Advertisements. Licensees shall not authorize, use or make any public statements or advertisements that are false, deceptive, misleading or fraudulent, either because of what they state, convey or suggest or because of what they omit concerning their own training, experience, abilities or competence; their academic degrees; their credentials; their institutional or association affiliations; or their publications or research.
- (b) Solicitation of Testimonials and/or Patients.
  - (1) Licensees do not solicit testimonials from current clients or patients or from other persons who are vulnerable to undue influence.
  - (2) Licensees do not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential patients or clients.
- (c) Use of Titles.
  - (1) An individual may not use the title of "Licensed Psychologist" unless the individual is licensed as such by this agency.
  - (2) An individual may not use the title of "Psychologist" when engaged in the practice of psychology, unless the individual is licensed as such by this agency.
  - (3) A licensed psychologist may not use a specialty title unless one or more of the following criteria have been met:
    - (A) the individual holds a doctorate in the area of specialization;
    - (B) the individual has undergone retraining under the American Psychological Association retraining guidelines of 1977 in the area of specialization;
    - (C) the individual has completed a two-year postdoctoral fellowship in the area of specialization;
    - (D) for individuals who matriculated from a doctoral program in psychology prior to 1978, documentation of academic coursework and

- relevant applied experience, as well as proof that the title has been used for at least five years; or
- (E) documentation of certification, approval, or specialist status granted by a professional, refereed board, provided that the licensee indicates the name of the board which granted the title and that the individual's status with the specialty board is current and in good standing. Use of the term "Board Certified" or "Board Approved" or any similar words or phrases calculated to convey the same meaning shall constitute misleading or deceptive advertising, unless the licensee discloses the complete name of the specialty board that conferred the aforementioned specialty title, certification, approval or specialist status.
- (d) **Assumed Names and Legal Entities.** Licensees engaged in the practice of psychology under an assumed name or through a legal entity must comply with the name and notification requirements set out in the Assumed Business and Professional Name Act found in Chapter 71 of the Texas Business and Commerce Code and §5.060 of the Texas Business Organizations Code.

*Adopted to be effective: June 3, 1999*

*Amended: December 2, 1999; July 8, 2001; May 30, 2007; October 6, 2015; April 19, 2016; September 26, 2017; June 24, 2019*

**465.7. Display of License/Renewal Permit.** Licensees must display the original license or an official duplicate issued by the Board and the current renewal permit in a conspicuous place in the principal office where the licensee practices. No unauthorized reproduction may be substituted or displayed. Licensees who provide psychological services through the internet or other remote or electronic means, must provide written notification of their license number and instructions on how to verify the status of a license when obtaining informed consent.

*Adopted to be effective: June 3, 1999*

*Amended: March 13, 2001; May 30, 2007; October 6, 2015*

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

*Adopted to be effective: June 3, 1999*

*Amended: March 13, 2000*

**465.9. Competency.**

- (a) Licensees provide only services for which they have the education, skills, and training to perform competently.
- (b) Competency includes the ability to provide services concerning a specific individual that takes into account characteristics of that individual including age, gender, ethnicity, national origin, disability, language, and socio-economic status.
- (c) Licensees maintain current knowledge of scientific and professional information that ensures competency in every area in which they provide services.
- (d) Licensees provide services in an unfamiliar area or involving new techniques only after first undertaking appropriate study and training, including supervision, and/or consultation from a professional competent to provide such services.
- (e) In emerging areas in which generally recognized standards for preparatory training do not exist, licensees take reasonable steps to ensure the competence of their work and to protect patients, clients, research participants, and other affected individuals from the potential for harm.
- (f) Licensees are responsible for ensuring that all individuals practicing under their supervision are competent to perform those services.
- (g) Licensees who delegate performance of certain services such as test scoring are responsible for ensuring that the entity to whom the delegation is made is competent to perform those services.
- (h) Licensees who lack the competency to provide particular psychological services to a specific individual must withdraw and refer the individual to a competent appropriate service provider.
- (i) Emergency Situations. In emergencies, when licensees are asked to provide services to individuals for whom appropriate mental health services are not available and for which the licensee has not obtained the necessary competence, licensees may provide such services only to the extent necessary to ensure that services are not denied. If ongoing services are provided, licensees must comply with subsection (d) of this section as soon as practicable or refer the patient as per subsection (h) of this section.
- (j) Licensees refrain from initiating or continuing to undertake an activity when they know or should know that there is a substantial likelihood that personal problems or conflicts will prevent them from performing their work-related activities or

producing a psychological report in a competent and timely manner. When licensees become aware of such conflicts, they must immediately take appropriate measures, such as obtaining professional consultation or assistance in order to determine whether they should limit, suspend, or terminate the engagement in accordance with Board rule §465.21 of this title (relating to Termination of Services).

*Adopted to be effective: June 3, 1999*

*Amended: September 12, 2002; June 5, 2005; May 30, 2007; September 19, 2012*

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

*Adopted to be effective: June 3, 1999*

**465.11. Informed Consent.**

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



- (e) When a licensee agrees to provide services to several persons who have a relationship, such as spouses, couples, parents and children, or in group therapy, the licensee clarifies at the outset the professional relationship between the licensee and each of the individuals involved, including the probable use of the services and information obtained, confidentiality, expectations of each participant, and the access of each participant to records generated in the course of the services.
- (f) At any time that a licensee knows or should know that he or she may be called on to perform potentially conflicting roles (such as marital counselor to husband and wife, and then witness for one party in a divorce proceeding), the licensee explains the potential conflict to all affected parties and adjusts or withdraws from all professional services in accordance with Board rules and applicable state and federal law. Further, licensees who encounter personal problems or conflicts as described in Board rule §465.9(i) of this title (relating to Competency) that will prevent them from performing their work-related activities in a competent and timely manner must inform their clients of the personal problem or conflict and discuss appropriate termination and/or referral to insure that the services are completed in a timely manner.
- (g) When persons are legally incapable of giving informed consent, licensees obtain informed consent from any individual legally designated to provide substitute consent.
- (h) When informed consent is precluded by law, the licensee describes the nature and purpose of all services, as well as the confidentiality of the services and all applicable limits thereto, that he or she intends to provide to the patient, client, or other recipient(s) of the psychological services prior to initiating the services using language that is reasonably understandable to the recipient(s).

*Adopted to be effective: June 3, 1999*

*Amended: March 13, 2000; December 10, 2002; June 5, 2005; September 26, 2016; September 26, 2017*

**465.12. Privacy and Confidentiality.**

- (a) Licensees utilize business practices and provide services in a manner that safeguards the privacy and confidentiality of patients and clients.
- (b) Licensees must inform their patients or clients about confidentiality and foreseeable limitations on confidentiality created by existing and reasonably foreseeable circumstances prior to the commencement of services as part of the informed consent process described in Board rule

§465.11 of this title (relating to Informed Consent/Describing Psychological Services).

- (c) Licensees keep patients and clients informed of all changes in circumstances affecting confidentiality as they arise.
- (d) Licensees comply with Chapter 611 of the Texas Health and Safety Code and all other state and federal law applicable to patient/client confidentiality.
- (e) Licensees disclose confidential information without the consent of a patient or client only in compliance with applicable state and federal law.
- (f) Licensees who release confidential records relating to a patient or client that also contain confidential information relating to a second patient or client that the licensee obtained through the provision of services to that second individual, and who lack consent or other legal authority to disclose the second individual's identity and/or records, must remove all identifying and confidential information relating to the second individual before releasing the records.
- (g) Licensees may share information for consultation purposes without a consent only to the extent necessary to achieve the purposes of the consultation. Licenses shall exclude information that could lead to the identification of the patient or client.
- (h) Licensees shall not require a patient or client to waive a legal right to confidentiality as a condition of providing services.
- (i) Licensees include in written and oral reports and consultations, only information germane to the purpose for which the communication is made.

*Adopted to be effective: June 3, 1999*

*Amended: March 13, 2000; December 10, 2002; September 10, 2007; September 19, 2012*

**465.13. Personal Problems, Conflicts and Dual Relationships.**

- (a) In General.
  - (1) Licensees refrain from providing services when they know or should know that their personal problems or a lack of objectivity are likely to impair their competency or harm a patient, client, colleague, student, supervisee, research participant, or other person with whom they have a professional relationship.
  - (2) Licensees seek professional assistance for any personal problems, including alcohol or substance abuse likely to impair their competency.
  - (3) Licensees do not exploit persons over whom they have supervisory evaluative, or other authority such as

- students, supervisees, employees, research participants, and clients or patients.
- (4) Licensees refrain from entering into or must withdraw from any professional relationship that conflicts with their ability to comply with all Board rules applicable to other existing professional relationships.
- (b) Dual Relationships.
- (1) A licensee must refrain from entering into a dual relationship with a client, patient, supervisee, student, group, organization, or any other party if such a relationship is likely to impair the licensee's objectivity, prevent the licensee from providing competent psychological services, or exploit or otherwise cause harm to the other party.
  - (2) A licensee must refrain from entering into or withdraw from a professional relationship where personal, financial, or other relationships are likely to impair the licensee's objectivity or pose an unreasonable risk of harm to a patient or client.
  - (3) A licensee who is considering or involved in a professional or non-professional relationship that could result in a violation of this rule must take appropriate measures, such as obtaining professional consultation or assistance, to determine whether the licensee's relationships, both existing and contemplated, are likely to impair the licensee's objectivity or cause harm to the other party.
  - (4) Licensees do not provide psychological services to a person with whom they have had a sexual relationship.
  - (5) Licensees do not terminate psychological services with a person in order to have a sexual relationship with that person. Licensees do not terminate psychological services with a person in order to have a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of the client.

*Adopted to be effective: June 3, 1999*

*Amended: March 13, 2000; December 10, 2002; September 10, 2007; June 10, 2012; July 5, 2018*

#### **465.14. Misuse of Licensees' Services.**

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

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

*Adopted to be effective: June 3, 1999*

*Amended: September 10, 2007*

**465.15. Fees and Financial Arrangements.**

- (a) General Requirements.
  - (1) Before the provision of any services, the licensee and the recipient of psychological services reach an agreement specifying the compensation and billing arrangements.
  - (2) If services are not paid for as agreed, the licensee shall not utilize a collection agency or legal measures to collect any unpaid fees unless the licensee has provided the affected party with at least 30 days written notice, separate and apart from any notice provided as part of the informed consent process, that such measures will be taken and the party has been provided with a reasonable opportunity to make prompt payment.
  - (3) Licensees shall not withhold records solely because payment has not been received unless specifically permitted by law.
  - (4) In reporting their services to third-party payers, licensees accurately state the nature, date and fees for the services provided.
- (b) Ethical and Legal Requirements.
  - (1) Licensees do not engage in fraudulent billing.
  - (2) Licensees do not misrepresent their fees.
  - (3) Licensees do not overcharge or otherwise exploit recipients of services or payers with respect to fees.
  - (4) Licensees do not receive payments from or divide fees with another health care provider in exchange for professional referrals.
  - (5) A licensee does not participate in bartering if it is clinically contra-indicated or if bartering has the potential to create an exploitative or harmful dual relationship.

*Adopted to be effective: June 3, 1999*

*Amended: March 13, 2000; December 10, 2002; September 10, 2007; November 29, 2012; September 19, 2018*

**465.16. Evaluation, Assessment, Testing, and Reports.**

- (a) Scope and Purpose.

- (1) Licensees clearly describe the scope and purpose of evaluation, assessment, and testing to patients before they provide these psychological services.
  - (2) Licensees produce reports that clearly state and accurately reflect the scope and purpose of evaluation, assessment, and testing.
- (b) Reliability and Validity.
- (1) Licensees verify, by signature and date, that every evaluation, assessment, test result, report, recommendation, or psychological diagnostic or evaluative statement produced is based on information and techniques sufficient to provide appropriate substantiation for its findings.
  - (2) Licensees administer, score, interpret or use assessment techniques or tests only if they are familiar with the reliability, validation and related standardization or outcome studies of, and proper applications and use of, the techniques they use.
  - (3) Licensees who administer, score, interpret or utilize psychological assessment techniques, tests or instruments do so in a manner and for purposes for which there are professional or scientific bases.
  - (4) Licensees do not base their assessment or intervention decisions or recommendations on data or test results that are outdated for the current purpose.
  - (5) Licensees do not base decisions or recommendations on tests and measures that are obsolete or not useful for the current purpose.
- (c) Limitations.
- (1) Licensees include all information that provides the basis for their findings in any report in which they make findings or diagnoses about an individual.
  - (2) Licensees identify limits to the certainty with which diagnoses, judgments, or predictions can be made about individuals.
  - (3) Licensees identify various test factors and characteristics of the person being assessed that might affect their professional judgment or reduce the accuracy of their interpretations when interpreting assessment results, including automated interpretations.
  - (4) Licensees include any significant reservations they have about the accuracy or limitations of their interpretations or findings in any report they produce.
  - (5) Licensees provide opinions of the psychological characteristics of individuals only after they have

conducted an examination of the individuals adequate to support their statements or conclusions. When such an examination is not practical, licensees document the efforts they made to obtain such an examination and clarify the probable impact of their limited information to the reliability and validity of their conclusions.

- (6) Licensees must meet any education, training, or licensure requirements established by a test publisher for the purchase or use of its test materials. It is presumed that a licensee meets any such requirements if a test publisher or other authorized vendor, sells test materials to a licensee. Any false or misleading representation by a licensee regarding the individual's qualifications will negate this presumption.
- (d) **Test Security and Validity.** Licensees conduct testing and maintain and release test protocols and data in a secure manner that does not compromise the validity of the test.

*Adopted to be effective: June 3, 1999*

*Amended: March 13, 2000; December 10, 2002; June 5, 2008; September 26, 2017*

#### **465.17. Therapy and Counseling.**

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

- (4) Licensees confer with and obtain consent from the patient, or client or other recipient(s) of services concerning significant alterations in the treatment plan in accordance with Board rule §465.11(b) of this title (relating to Informed Consent/Describing Psychological Services).

*Adopted to be effective: June 3, 1999*

*Amended: December 10, 2002; September 10, 2007; December 7, 2008*

**465.18. Forensic Services.**

- (a) In General.
  - (1) A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a divorce, child custody determination, fitness for duty evaluation for high risk personnel, disability claim, or risk assessment evaluations of employees, must comply with all applicable Board rules concerning forensic services regardless of whether the licensee is acting as a factual witness or an expert.
  - (2) Licensees who engage in forensic services must have demonstrated appropriate knowledge of and competence in all underlying areas of psychology about which they provide such services.
  - (3) All forensic opinions, reports, assessments, and recommendations rendered by a licensee must be based on information and techniques sufficient to provide appropriate substantiation for each finding.
  - (4) A licensee who provides forensic services must comply with all other applicable Board rules and state and federal law relating to the underlying areas of psychology relating to those services.
  - (5) When appointed or designated in writing by a court to provide psychological services, a licensee shall obtain and keep a copy of the court order.
  - (6) When providing forensic psychological services to a minor who is the subject of a court order or the ward of guardianship, a licensee shall obtain and keep a copy of the relevant portions of any court order, divorce decree, or letters of guardianship authorizing the individual to provide substitute consent on behalf of the minor or ward.
- (b) Limitation on Services.
  - (1) A licensee who is asked to provide an opinion concerning an area or matter about which the licensee does not have the appropriate knowledge and

- competency to render a professional opinion shall decline to render that opinion.
- (2) A licensee who is asked to provide an opinion concerning a specific matter for which the licensee lacks sufficient information to render a professional opinion shall decline to render that opinion unless the required information is provided.
  - (3) A licensee shall not render a written or oral opinion about the psychological characteristics of an individual without conducting an examination of the individual unless the opinion contains a statement that the licensee did not conduct an examination of the individual.
  - (4) A written or oral opinion about the psychological characteristics of an individual rendered by a licensee who did not conduct an examination of that individual must contain clarification of the extent to which this limits the reliability and validity of the opinion and the conclusions and recommendations of the licensee.
  - (5) When seeking or receiving court appointment or designation as an expert for a forensic evaluation a licensee specifically avoids accepting appointment or engagement for both evaluation and therapeutic intervention for the same case. A licensee provides services in one but not both capacities in the same case.
- (c) Describing the Nature of Services. A licensee must document in writing that subject(s) of forensic evaluations or their parents or legal representative have been informed of the following:
- (1) The nature of the anticipated services (procedures);
  - (2) The specific purpose and scope of the evaluation;
  - (3) The identity of the party who requested the psychologist's services;
  - (4) The identity of the party who will pay the psychologist's fees and if any portion of the fees is to be paid by the subject, the estimated amount of the fees;
  - (5) The type of information sought and the uses for information gathered;
  - (6) The people or entities to whom psychological records will be distributed;
  - (7) The approximate length of time required to produce any reports or written results;
  - (8) Applicable limits on confidentiality and access to psychological records;



- (9) Whether the psychologist has been or may be engaged to provide testimony based on the report or written results of forensic psychological services in a legal proceeding; and
  - (10) The licensee's name as it appears in their professional file with the Board prior to initiating services.
- (d) Certain Testimony Prohibited.
- (1) A licensee may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation.
  - (2) In a contested suit, a licensee may provide other relevant information and opinions, other than those prohibited by paragraph (1) of this subsection, relating to any party that the licensee has personally evaluated or treated.
  - (3) This subsection does not apply to a suit in which the Department of Family and Protective Services is a party.
- (e) Child Custody Evaluations.
- (1) The role of the child custody evaluator is one of professional expert. A licensee serving as a child custody evaluator shall not function as an advocate, but must remain impartial and objective. Licensees conducting child custody evaluations, including those licensees appointed by a court, are subject to the Board's jurisdiction and must follow all applicable Board rules.
  - (2) The term "supervision" as used in this subsection shall have the meaning assigned by Tex. Fam. Code Ann. §107.101. However, the term shall not encompass the restrictions and requirements set forth in Board rule §465.2 of this title (relating to Supervision) nor shall a licensee providing supervision under this subsection have supervisory responsibility under Board rule §465.2 of this title.
  - (3) Minimum Qualifications of Child Custody Evaluator.
    - (A) A licensee must be qualified to conduct a child custody evaluation pursuant to Tex. Fam. Code Ann. §107.104 before the licensee may conduct an evaluation. Licensees qualified to conduct evaluations under Tex. Fam. Code Ann. §107.104(b)(2) must conduct evaluations under supervision in accordance with that section.
    - (B) Notwithstanding any other grounds for qualification, the Board has determined that a

licensed psychologist is qualified to conduct child custody evaluations if the licensee:

- (i) has obtained a minimum of 8 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and is board certified in forensic psychology by the American Board of Professional Psychology (ABPP); or
  - (ii) has obtained a minimum of 40 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and has conducted at least three child custody evaluations under the supervision of a qualified licensee.
- (C) A licensee who does not meet the minimum qualification requirements set forth in Tex. Fam. Code Ann. §107.104, may nevertheless conduct a child custody evaluation if:
- (i) appointed to do so pursuant to Tex. Fam. Code Ann. §107.106. A licensee appointed under Tex. Fam. Code Ann. §107.106 must comply with the provisions of Subchapter D of the Texas Family Code and this rule;
  - (ii) the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship prior to September 1, 2015; or
  - (iii) the licensee was qualified to conduct a social study evaluation under former Tex. Fam. Code Ann. §107.0511(g). This subpart shall expire on August 31, 2017, at which time it shall have no further force and effect.
- (D) If requested by a court, a licensee selected to conduct or who is conducting a child custody evaluation must demonstrate appropriate knowledge and competence in child custody evaluation services consistent with professional models, standards, and guidelines.
- (E) In addition to the minimum qualifications set forth by this rule, an individual must complete

at least eight hours of family violence dynamics training provided by a family violence service provider to be qualified to conduct child custody evaluations.

- (4) Disclosure of Conflicts and Bias.
  - (A) Licensees shall comply with all disclosure requirements set forth in Tex. Fam. Code Ann. §107.107.
  - (B) Following any disclosure required by Tex. Fam. Code Ann. §107.107(c), a licensee must resign as child custody evaluator, unless:
    - (i) the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or
    - (ii) the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the child custody evaluator.
  - (C) Except as authorized by Tex. Fam. Code Ann. §107.107(f), licensees may not accept appointment as a child custody evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by Tex. Fam. Code Ann. §71.003.
- (5) Elements of Child Custody Evaluation.
  - (A) Licensees shall comply with Tex. Fam. Code Ann. §§107.108, 107.109, and 107.1101 when conducting child custody evaluations.
  - (B) Licensees may conduct psychometric testing as part of a child custody evaluation in accordance with Tex. Fam. Code Ann. §107.110.
- (6) Communications and Recordkeeping of Child Custody Evaluator.
  - (A) Licensees shall comply with the requirements of Tex. Fam. Code Ann. §107.112 regarding:
    - (i) the disclosure of communications between evaluation participants;
    - (ii) the creation and retention of records relevant to the evaluation; and
    - (iii) access to evaluation records.
  - (B) Licensees conducting child custody evaluations shall maintain the confidentiality of records

obtained from the Department of Family and Protective Services pursuant to Tex. Fam. Code Ann. §107.111, as well as any records obtained pursuant to Tex. Fam. Code Ann. §107.1111. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by law will result in disciplinary action against a licensee.

(7) Evaluation Report.

- (A) A licensee who conducts a child custody evaluation shall prepare and file a report in accordance with Tex. Fam. Code Ann. §107.113.
- (B) A licensee shall provide a copy of any report filed with the Court in accordance with Tex. Fam. Code Ann. §107.114.

(f) Adoption Evaluations.

(1) The role of the adoption evaluator is one of professional expert. A licensee serving as an adoption evaluator shall not function as an advocate, but must remain impartial and objective. Licensees conducting adoption evaluations, including those licensees appointed by a court, are subject to the Board's jurisdiction and must follow all applicable Board rules.

(2) Minimum Qualifications of Adoption Evaluator.

- (A) A licensee must be qualified to conduct an adoption evaluation pursuant to Tex. Fam. Code Ann. §107.154 before the licensee may conduct an evaluation.
- (B) Licensees qualified to conduct a child custody evaluations are also qualified to conduct adoption evaluations.
- (C) A licensee who does not meet the minimum qualification requirements set forth in Tex. Fam. Code Ann. §107.154, may nevertheless conduct an adoption evaluation if:
  - (i) appointed to do so pursuant to Tex. Fam. Code Ann. §107.155. A licensee appointed under Tex. Fam. Code Ann. §107.155 must comply with the provisions of Subchapter E of the Texas Family Code and this rule; or
  - (ii) the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits

affecting the parent-child relationship  
prior to September 1, 2015.

- (3) Disclosure of Conflicts and Bias.
  - (A) Licensees shall comply with all disclosure requirements set forth in Tex. Fam. Code Ann. §107.156.
  - (B) Following any disclosure required by Tex. Fam. Code Ann. §107.156(c), a licensee must resign as adoption evaluator, unless:
    - (i) the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or
    - (ii) the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the adoption evaluator.
  - (C) Except as authorized by Tex. Fam. Code Ann. §107.156(e), licensees may not accept appointment as an adoption evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by Tex. Fam. Code Ann. §71.003.
- (4) A licensee shall report to the Department of Family and Protective Services any adoptive placement that appears to have been made by someone other than a licensed child-placing agency or a child's parent or managing conservator.
- (5) Licensees shall comply with Tex. Fam. Code Ann. §§107.158, 107.159, and 107.160 when conducting adoption evaluations.
- (6) Licensees conducting adoption evaluations shall maintain the confidentiality of records obtained from the Department of Family and Protective Services pursuant to Tex. Fam. Code Ann. §107.163. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by Tex. Fam. Code Ann. §107.163 will result in disciplinary action against a licensee.
- (g) Duty to Report Complaints. Licensees must report any complaint filed against them with this Board that alleges facts tending to show a violation of this rule in connection with a child custody or adoption evaluation. The report must

be made to the court that ordered the evaluation within 30 days of receiving notice of the complaint from the Board. Only those complaints for which a licensee receives notice from the Board need to be reported.

(h) Parenting Facilitators.

- (1) The title "parenting facilitator" is defined in the Texas Family Code, Title 5, Subtitle B, Chapter 153, Subchapter K, Parenting Plan, Parenting Coordinator, and Parenting Facilitator.
- (2) The Board's jurisdiction over licensees who also accept engagements as parenting facilitators is limited to its enforcement of Board rules. The Family Code sets forth procedures for the qualifications, duties, appointment and removal, reporting, record retention, and compensation of parenting facilitators. The Family Code also provides procedures for disclosure of conflicts of interest by parenting facilitators. In the event of conflict between the Family Code and Board rules, the Family Code controls, pursuant to Board rule §461.14 of this title (relating to Conflict between Laws and Board Rules).
- (3) A parenting facilitator who is also a licensed psychologist in Texas is a provider of forensic psychological services and must comply with all other applicable Board rules and state and federal laws relating to the underlying areas of psychology relating to those services.
- (4) Participants in parenting facilitation are not patients as defined in these rules and in Texas Health and Safety Code §611.001. Records created during parenting facilitation are not confidential.
- (5) Parenting facilitators must comply with the Texas Family Code at §153.6061 as to duties and §153.6101 as to qualifications, and with the "Guidelines for Parenting Coordination" developed by the Association of Family and Conciliation Courts Task Force on Parenting Coordination, dated May 2005.
- (6) The following psychologist-parenting facilitator practice standards are set forth consistent with Texas Family Code §153.6101.
  - (A) Parenting facilitators licensed by the Board shall comply with the standard of care applicable to the license to practice psychology in Texas.
  - (B) Psychologist-parenting facilitators meet all requirements of Texas Family Code §153.6101, including active licensure to practice as a

psychologist in Texas; completion of 8 hours of family violence dynamics training provided by a family violence service provider; 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court; 24 classroom hours of training in the fields of family dynamics, child development, and family law; and 16 hours of training in the laws governing parenting coordination and parenting facilitation and the multiple styles and procedures used in different models of service.

*Adopted to be effective: June 3, 1999*

*Amended: May 2, 2002; December 7, 2008, March 10, 2011; September 28, 2011; June 10, 2012; November 29, 2012; December 27, 2015; July 5, 2018*

**465.20. Research.**

- (a) Conducting Research.
  - (1) Licensees who conduct research involving human research participants must obtain informed consent which includes risks, discomfort, adverse effects, limitations on confidentiality including anticipated sharing or use of personally identifiable research data and of the possibility of unanticipated future uses, as well as any aspects about which the prospective participants inquire.
  - (2) Licensees shall conduct all research involving animals in a humane manner which minimizes the discomfort, infection, illness and pain of animal subjects. A procedure subjecting animals to pain, stress or privation is used only when an alternative procedure is unavailable and the goal is justified by its prospective scientific, education or applied value.
- (b) Research results.
  - (1) Psychologists do not fabricate data or falsify results in their publications.
  - (2) Licensees who discover significant errors in their published data take all reasonable steps to correct such errors.
  - (3) Licensees do not present substantial portions or elements of another individual's research work or data as their own.
  - (4) Licensees take responsibility and credit, including authorship credit, only for work they have actually performed or to which they have contributed.

*Adopted to be effective: June 3, 1999*

**465.21. Termination of Services.**

- (a) Licensees do not abandon patients or clients.
- (b) Withdrawal from a professional relationship in compliance with Board rules to avoid a prohibited dual relationship is not abandonment of a patient or client.
- (c) Licensees terminate a professional relationship when it becomes reasonably clear that the patient or client no longer needs the service, is not benefiting or is being harmed by continued service.
- (d) Prior to termination of a professional relationship for any reason, the licensee takes all reasonable steps to facilitate transfer of responsibility for the patient or client to a qualified service provider if necessary to prevent physical or emotional harm and, if not precluded by the patient or client's conduct, provides appropriate pre-termination counseling and referrals.
- (e) Licensees who are required to interrupt services of a professional relationship for any reason shall make arrangements for provision of any services to all patients or clients required during the interruption.
- (f) Termination of employment with agencies or organizations.
  - (1) When entering into employment or contractual relationships, licensees provide for orderly and appropriate resolution of responsibility for patient or client care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the patient or client.
  - (2) Licensees who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate access to records of all services provided by the licensee to patients or clients as otherwise required by Board rules and applicable law.
  - (3) Licensees who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate transfer of clients or patients who are continuing to receive services from the agency or organization to another qualified service provider.
- (g) Termination of employment with public schools.
  - (1) A Licensed Specialist in School Psychology (LSSP) who is under contract as an employee of a public school to provide school psychological services must deliver to



such public school a written resignation before terminating services or employment without cause. The resignation must be filed with the public school's board of trustees or designee not later than the 45th day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the public school's board of trustees or designee at the post office address of the public school is considered delivered at the time of mailing.

- (2) A LSSP who is under contract as an employee of a public school may resign at any time if given written consent by the public school's board of trustees or designee or if such resignation is for cause.

*Adopted to be effective: June 3, 1999*

*Amended: September 26, 2013*

#### **465.22. Psychological Records, Test Data and Test Materials.**

- (a) General Requirements.
  - (1) All licensees shall create and maintain accurate, current, and pertinent records of all psychological services rendered by or under the supervision of the licensee.
  - (2) All records shall be sufficient to permit planning for continuity in the event that another care provider takes over delivery of services to a patient or client for any reason, including the death, disability or retirement of the licensee and to permit adequate regulatory and administrative review of the psychological service.
  - (3) All licensees shall identify impressions and tentative conclusions as such in patient or client records.
  - (4) All records and record entries shall be created in as timely a manner as possible after the delivery of the specific services being recorded.
  - (5) Records shall be maintained and stored in a way that permits review and duplication.
  - (6) Licensees working in public school settings shall comply with all federal and state laws relative to the content, maintenance, control, access, retention and destruction of psychological and educational records, test data and test protocols.
  - (7) Licensees are prohibited from falsifying, altering, fabricating, or back-dating records and reports.
- (b) Maintenance and Control of Records.

- (1) Licensees shall maintain records in a manner that protects the confidentiality of all services delivered by the licensee.
  - (2) Licensees are responsible for the contents of, as well as the access, retention, control, maintenance, and destruction of all records unless stated otherwise by law.
  - (3) Licensees shall make all reasonable efforts to protect against the misuse of any record.
  - (4) Licensees shall maintain control over records to the extent necessary to ensure compliance with all applicable state and federal laws.
  - (5) In situations where it becomes impossible for a licensee to maintain control over records as required by state or federal law, the licensee shall make all necessary arrangements for transfer of the licensee's records to another licensee who will ensure compliance with state and federal laws concerning records.
  - (6) The possession, access, retention, control, maintenance, and destruction of records of psychological services rendered by a licensee as an employee of or contractor for an agency or organization remain the responsibility of that agency or organization upon termination of the licensee's employment or contract unless otherwise required by state or federal law or legal agreement.
- (c) Access to Records.
- (1) Records shall be entered, organized and maintained in a manner that facilitates their use by all authorized persons.
  - (2) Records may be maintained in any media that ensure confidentiality and durability.
  - (3) A licensee shall release information about a patient or client only upon written authorization from the patient or client, or as otherwise permitted or required under state or federal law.
  - (4) Test materials are not part of a patient's or client's record and may not be copied or distributed unless otherwise permitted or required under state or federal law.
  - (5) Test data are part of a patient's records and must be released to the patient as part of the patient's records. In the event test data are commingled with test materials, licensees may inquire whether the patient will accept a summary or narrative of the test data in lieu of having to either redact the test materials or

- extract the test data from test materials in order to comply with the request for records.
- (6) Licensees cooperate in the continuity of care of patients and clients by providing appropriate information to succeeding qualified service providers as permitted by applicable Board rule and state and federal law.
  - (7) Licensees who are temporarily or permanently unable to practice psychology shall implement a system that enables their records to be accessed in compliance with applicable Board rules and state and federal law.
  - (8) Access to records may not be withheld due to an outstanding balance owed by a client for psychological services provided prior to the patient's request for records. However, licensees may impose a reasonable fee for review and/or reproduction of records and are not required to permit examination until such fee is paid, unless there is a medical emergency or the records are to be used in support of an application for disability benefits.
  - (9) No later than 15 days after receiving a written request from a patient to examine or copy all or part of the patient's mental health records, a psychologist shall:
    - (A) make the information available for examination during regular business hours and provide a copy to the patient, if requested; or
    - (B) inform the patient in writing that the information does not exist or cannot be found; or
    - (C) when withholding information, provide the patient with a signed and dated statement reflecting the licensee's determination, based upon the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person. The written statement must specify the portion of the record being withheld, the reason for denial and the duration of the denial.
  - (10) A licensee may, but is not required to provide a patient with access to psychotherapy notes, as that term is specifically defined in 45 C.F.R. §164.501, maintained by the licensee concerning the patient.
- (d) Retention of Records.
- (1) Licensees shall comply with all applicable laws, rules and regulations concerning record retention.

- (2) In the absence of applicable state and federal laws, rules and regulations, records and test data shall be maintained for a minimum of seven years after termination of services with the patient, client or subject of evaluation, or three years after a patient or subject of evaluation reaches the age of majority, whichever is greater.
- (3) All records shall be maintained in a manner which permits timely retrieval and production.
- (e) Outdated Records.
  - (1) Licensees take reasonable steps when disclosing records to note information that is outdated.
  - (2) Disposal of records shall be done in an appropriate manner that ensures confidentiality of the records in compliance with applicable Board rules and state and federal laws.

*Adopted to be effective: June 3, 1999*

*Amended: March 13, 2000; March 13, 2001; February 21, 2002; May 30, 2007; June 5, 2008; March 12, 2013; September 26, 2013; September 26, 2017; September 19, 2018; June 24, 2019*

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

- (a) In General.
  - (1) A licensee has the right to sell or otherwise dispose of his or her practice to another licensed psychologist.
  - (2) A licensee has the right to assume the practice of a licensee.
  - (3) Arrangements regarding accounts receivable and other financial and tangible assets and liabilities of the practice being transferred must be resolved by the selling and assuming licensees prior to the transfer of any patient or client records.
- (b) Notice and Referral of Patients and Clients.
  - (1) A licensee who intends to sell, retire, or otherwise dispose of a practice must make reasonable efforts to notify current and former patients or clients that on a given date the practice is being sold and that patient or client records will be transferred to the referent unless the patient or client provides the name of an alternative mental health care provider to receive the records. This notice must provide a reasonable time to the patients and clients to make suitable responses and arrangements.
  - (2) A licensee who assumes the practice of another mental health service provider may state his or her willingness

to provide services to all patients or clients the licensee is competent to treat.

- (3) A licensee who assumes a practice must provide an appropriate referral to a qualified mental health services provider to any patient or client who notifies the licensee that they do not want to receive services from the licensee or to a patient or client to whom the licensee declines to offer services.
- (4) If the patient or client accepts a referral, the referring licensee must forward the patient or client's records to that mental health professional.

*Adopted to be effective: June 3, 1999*

*Amended: March 13, 2000; March 3, 2008; June 12, 2013*

#### **465.33. Improper Sexual Conduct.**

- (a) "Sexual Harassment" means sexual advances, requests for sexual favors, or other verbal or physical conduct or contact of a sexual nature that has the purpose or effect of creating an intimidating, hostile, or offensive environment and that occurs within a professional relationship. The determination of whether conduct or comments rise to the level of sexual harassment must be made based upon the totality of the circumstances, and from the viewpoint of a reasonable person. Sexual harassment does not include simple teasing, offhand comments, or isolated incidents that are not serious in nature.
- (b) "Sexual Impropriety" is deliberate or repeated comments, gestures, or physical acts of a sexual nature that include, but are not limited to:
  - (1) Behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexually demeaning;
  - (2) Making inappropriate comments about an individual's body;
  - (3) Making sexually demeaning comments to an individual;
  - (4) Making comments about an individual's potential sexual performance, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction in therapy/counseling;
  - (5) Requesting details of a patient or client's sexual history when not clinically indicated for the type of consultation;
  - (6) Requesting a date;
  - (7) Initiating conversation regarding the sexual problems, preferences, or fantasies of either party; or

- (8) Kissing of a sexual nature.
- (c) A sexual relationship is the engaging in any conduct that is sexual or may be reasonably interpreted as sexual in nature including, but not limited to:
    - (1) Sexual intercourse;
    - (2) Genital contact;
    - (3) Oral to genital contact;
    - (4) Genital to anal contact;
    - (5) Oral to anal contact;
    - (6) Touching breasts or genitals;
    - (7) Encouraging another to masturbate in one's presence;
    - (8) Masturbation in another's presence; or
    - (9) Exposure of sexual organs, breasts or buttocks.
  - (d) A dating relationship is a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature, but does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The existence of such a relationship shall be determined based on consideration of:
    - (1) The length of the relationship;
    - (2) The nature of the relationship; and
    - (3) The frequency and type of interaction between the persons involved in the relationship.
  - (e) A licensee may not engage in sexual harassment, sexual impropriety, or a sexual relationship with a current patient or client; a former patient or client over whom the licensee has influence due to a therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current patients or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of former patients for at least two years after termination of services.
  - (f) A licensee may not engage in a dating relationship with a current client or former client over whom the licensee has influence due to therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current clients, or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a dating relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children,

or siblings of former clients, for at least two years after termination of services. A licensee may never engage in a dating relationship when there is potential for harm to any of these individuals.

- (g) Psychologists do not accept as clients individuals with whom they have engaged in sexual relationships.

*Adopted to be effective: June 3, 1999*

*Amended: February 21, 2002; March 5, 2003; March 3, 2008; June 10, 2012; September 19, 2012; July 5, 2018*

**465.34. Providing Mental Health Services to Those Served by Others.**

Licensees do not knowingly provide psychological services to clients receiving mental health services elsewhere without first discussing consequent treatment issues with the clients. Licensees shall consult with the other service providers after appropriate consent has been obtained.

*Adopted to be effective June 3, 1999*

**465.35. Resolution of Allegations of Board Rule Violations.**

- (a) When a licensee believes that there may have been an ethical or Board rule violation by another licensee that does not involve harm or potential harm to any member of the public, the licensee may attempt to resolve the issue by bringing it to the attention of that individual if informal resolution would not violate any confidentiality rights that may be involved. Licensees shall report any unresolved rule violations to the Board.
- (b) A licensee must report conduct by a licensee that appears to involve harm or the potential for harm to any individual, or a violation of Board rule, a state law or federal law.
- (c) A licensee must cooperate with any investigation conducted by the Board, including providing all requested information to the Board's Enforcement Division for thorough investigation of the complaint. Disclosure of patient information in an investigation is authorized by §611.006(a)(1) and (2) of the Texas Health and Safety Code.

*Adopted to be effective: June 3, 1999*

*Amended: March 5, 2003; March 3, 2008*

**465.37. Compliance with All Applicable Laws.** Licensees comply with all applicable state and federal laws affecting the practice of psychology including, but not limited to:

- (1) Texas Health and Safety Code, Chapter 611, Mental Health Record;
- (2) Texas Family Code

- (A) Chapter 32, Consent to Medical, Dental, Psychological and Surgical Treatment,
- (B) Chapter 153, Rights to Parents and Other Conservators to Consent to Treatment and Access to Child's Records, and
- (C) Chapter 261, Duty to Report Child Abuse and Neglect;
- (3) Texas Human Resource Code, Chapter 48, Duty to Report Elder Abuse and Neglect;
- (4) Texas Civil Practice and Remedy Code, Chapter 81, Duty to Report Sexual Exploitation of a Patient by a Mental Health Services Provider;
- (5) Texas Insurance Code as it relates to submission of billing and third-party payments for mental health services provided by a licensee;
- (6) Texas Code of Criminal Procedure, Chapter 46B. Incompetency to Stand Trial, Art. 46B.025. Expert's Report and Art. 46B.026. Report Deadline; and Chapter 46C. Insanity Defense, Art 46C.105. Reports Submitted by Experts; and
- (7) 18 United States Code §1347 Health Care Fraud.

*Adopted to be effective: June 3, 1999*

*Amended: March 13, 2000; June 5, 2008; December 7, 2008; September 13, 2010*

**465.38. Psychological Services for Schools.**

- (a) This rule acknowledges the unique difference in the delivery of school psychological services in public and private schools from psychological services in the private sector. The Board recognizes the purview of the State Board of Education and the Texas Education Agency in safeguarding the rights of school children in Texas. The mandated multidisciplinary team decision making, hierarchy of supervision, regulatory provisions, and past traditions of school psychological service delivery both nationally and in Texas, among other factors, allow for rules of practice in public and private schools which reflect these occupational distinctions from the private practice of psychology.
- (b) Scope of Practice.
  - (1) A Licensed Specialist in School Psychology (LSSP) means a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions which attempt to improve the learning, adjustment and behavior of students. Such activities include, but are not limited to, addressing special



education eligibility, conducting manifestation determinations, and assisting with the development and implementation of individual educational programs, conducting behavioral assessments, and designing and implementing behavioral interventions and supports.

- (2) The assessment of emotional or behavioral disturbance, solely for educational purposes, using psychological techniques and procedures is considered the practice of school psychology.
  - (3) The delivery of school psychological services in the public schools of this state shall be consistent with nationally recognized standards for the practice of school psychology. Licensees providing school psychological services in a private school should comply with those same nationally recognized standards where possible, but at a minimum, must comply with all applicable Board rules, including those related to informed consent, notification of the right to file a complaint, competency, forensic services, and misuse of services.
- (c) The specialist in school psychology license permits the licensee to provide school psychological services only in public and private schools. A person utilizing this license may not provide psychological services in any context or capacity outside of a public or private school.
- (d) The correct title for an individual holding a specialist in school psychology license is Licensed Specialist in School Psychology or LSSP. An LSSP who has achieved certification as a Nationally Certified School Psychologist (NCSP) may use this credential along with the license title of LSSP.
- (e) Providers of Psychological Services Within the Public Schools.
- (1) School psychological services may be provided in Texas public schools only by individuals authorized by this Board to provide such services. Individuals who may provide such school psychological services include:
    - (A) LSSPs;
    - (B) Those individuals listed in Board rule §463.9(g) of this title (relating to Licensed Specialist in School Psychologists); and
    - (C) Individuals seeking to fulfill the licensing requirements of Board rule §463.8 of this title (relating to Licensed Psychological Associate), Board rule §463.10 of this title (relating to

Provisionally Licensed Psychologists), or Board rule § 463.11 of this title (relating to Licensed Psychologist).

- (2) Licensees who do not hold the specialist in school psychology license may contract for specific types of psychological services, such as clinical psychology, counseling psychology, neuropsychology, and family therapy, but any such contracting may not involve the broad range of school psychological services listed in subsection (b)(1) of this rule.
  - (3) An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider prior to entering into the agreement. An LSSP subject to this provision shall be responsible for ensuring the school psychological services delivered comply with subsection (b)(3) above.
- (f) Compliance with Applicable Education Laws. LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:
- (1) Texas Education Code;
  - (2) Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g;
  - (3) Individuals with Disabilities Education Improvement Act (IDEIA), 20 U.S.C. §1400 et seq.;
  - (4) Texas Public Information Act ("Open Records Act"), Texas Government Code, Chapter 552;
  - (5) Section 504 of the Rehabilitation Act of 1973;
  - (6) Americans with Disabilities Act (ADA) 42 U.S.C. §12101; and
  - (7) HIPAA when practicing in a private school.
- (g) Informed Consent in a Public School. Informed consent for a Licensed Specialist in School Psychology must be obtained in accordance with the Individuals with Disabilities Education Improvement Act (IDEIA) and the U.S. Department of Education's rules governing parental consent when delivering school psychological services in the public schools, and is considered to meet the requirements for informed consent under Board rules. No additional informed consent, specific to any Board rules, is necessary in this context. Licensees providing psychological services under subsection (e)(2) or in a private school however, must obtain informed consent as otherwise required by the Board rules.

*Adopted to be effective: April 19, 2016*

*Amended: December 25, 2016; September 26, 2017*

## **COMPLAINTS AND ENFORCEMENT**

### **469.1. Timeliness of Complaints.**

- (a) A complaint not involving a violation of Board rules §465.33 of this title (relating to Improper Sexual Conduct) or §465.22(d) of this title (relating to Psychological Records, Test Data and Test Protocols), will be considered timely if brought within five years of the date of the termination of professional services.
- (b) A complaint alleging a violation of Board rules §465.33 of this title or 465.22(d) of this title, will be considered timely if brought within seven years after termination of services or within three years of the patient, a client or subject of evaluation reaching the age of majority, whichever is greater.
- (c) A complaint arising out of disciplinary action taken against a licensee by any entity listed in Board rule 469.11(a)(4) of this title (relating to Legal Actions Reported and Reciprocal Discipline), will be considered timely if brought within five years of the date the disciplinary action is reported to the Board.
- (d) Limitations shall not begin to run for any complaint arising out of a matter required to be reported under Board rule 469.11 of this title, until the matter is reported in accordance with that rule.

*Adopted to be effective: December 2, 1999*

*Amended: September 1, 2003; October 1, 2008; May 21, 2009; May 31, 2010; September 19, 2012; March 12, 2013; September 26, 2017*

### **469.2. Public Complaint Notification Statement.**

- (a) Methods of Notification. The Board and its licensees shall provide notification to the public that complaints can be filed with the Board by publishing the Board's name, its mailing address, and telephone number by the following method:
  - (1) Displaying a sign in a prominent location on a wall in all rooms where psychological services are conducted in a position that is reasonably likely to be viewed by individuals occupying the room, on paper of no less than 8-1/2 inches by 11 inches in size, with the Board-approved notification statement printed in black. Licensees providing psychological services through the internet shall display an image of the notification statement in a prominent and easily accessible location within the website. The Board approved notification statement must be printed in both English and Spanish.

- (A) The Board-approved English notification statement reads as follows: "Be it known that the Texas State Board of Examiners of Psychologists receives questions and complaints regarding the practice of psychology. For assistance please contact: Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700, or 800-821-3205."
- (B) The Board-approved Spanish notification statement reads as follows: "Se desea informar que la Comisión Estatal Examinadora de Psicólogos de Texas recibe toda clase de consultas y quejas sobre el ejercicio profesional de la psicología en el Estado de Texas. Si usted necesita este servicio, comuníquese con: Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700 o 800-821-3205."
- (2) The Board-approved notification statement is provided to licensees at the time of licensure. Additional Board-approved notification statements may be obtained directly from the Board office at any time.
- (b) In addition to the Board-approved notification sign, licensees may also notify consumers by the following methods:
  - (1) on each registration form, application, or written contract for services of a licensee; or
  - (2) in a bill for services provided by a licensee.

*Adopted to be effective: December 2, 1999  
Amended: March 13, 2001; October 1, 2008*

### **469.3. Standardized Complaint Form.**

- (a) All complaints filed against a licensee must be submitted to the Board on the Board-approved standardized complaint form. The Board-approved complaint form can be obtained free of charge from the Board office or downloaded from the Board's web site.
- (b) The Board shall make available to each person who wishes to file a complaint: the Board-approved complaint form, waiver form if appropriate, release of information forms, and the Rules and Regulations of the Board.
- (c) The complaint form must be physically delivered to the Board office, mailed to the Board office, or faxed to the Board.

*Adopted to be effective: December 2, 1999  
Amended: September 1, 2003; October 1, 2008*

#### **469.4. Complaint Investigation.**

- (a) The Board has established a priority rating system to distinguish between categories of complaints. The priority rating system is as follows:
  - (1) cases involving imminent physical harm to the public;
  - (2) cases involving sexual misconduct on the part of a licensee;
  - (3) cases involving current applicants for licensure; and
  - (4) cases involving other administrative violations of Board Rules or the Act.
- (b) The Enforcement Division shall investigate all complaints in a timely manner. A schedule shall be established for conducting each phase of a complaint that is under the control of the Board not later than the 30th day after the date the complaint is received by the Board. The schedule shall be kept in the information file of the complaint, and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file, and all parties to the complaint must be notified in writing not later than the seventh day after the date the change is made.
- (c) A preliminary investigation shall be conducted to determine if the Board has jurisdiction over the complaint and to determine the nature of the allegations. The complainant will be provided the opportunity to explain the allegations made in the complaint.
- (d) A review will be conducted after the preliminary investigation to determine if the complaint states an allegation which, if true, would constitute a violation of the Board's Act and rules.
- (e) Complaints that do not state a violation of the Board's Act or rules shall be dismissed. If the complaint alleges a violation of another agency's Act or rules, the complaint will be referred to the appropriate agency as required or allowed by law.
- (f) Complaints that state a violation of the Board's Act and rules shall be investigated by an investigator assigned by the Manager of the Enforcement Division.
- (g) Licensees will receive notice in writing and addressed to the party. Notice to a licensee is effective and service is complete when sent by certified or registered mail, return receipt requested, to the licensee's address of record at the time of the mailing.
- (h) Following completion of the investigation, an investigation report shall be drafted. This report shall include a

recommendation as to whether the investigation has produced sufficient evidence to establish probable cause that a violation of the Board's Act and rules has occurred.

- (i) The Enforcement Division Manager and the counsel for the Board shall review the investigation report, evidence and the case file of the complaint to determine if there is sufficient evidence to demonstrate a violation of the Board's Act, rules, or order to recommend probable cause to the Board.
- (j) A complaint for which the staff determines probable cause shall be referred to a Disciplinary Review Panel of the Board for an informal conference. The Board shall serve the Respondent with a Notice of Violation and Informal Settlement Conference.
- (k) A complaint for which the staff determines that probable cause does not exist shall be referred for dismissal.
- (l) The services of a private investigator shall be retained only in the event that staff investigator positions are vacant or inadequate to provide essential investigative services. The services of a private investigative agency shall be obtained in accordance with the state's procurement procedures.

*Adopted to be effective: December 2, 1999*

*Amended: September 1, 2003; October 1, 2008; December 18, 2018*

#### **469.5. Complaint Disposition.**

- (a) The Board will enter orders accepting resignations or assessing sanctions and dismiss complaints at regularly scheduled meetings.
- (b) Notwithstanding subsection (a) of this section, the Executive Director may dismiss a complaint if the Executive Director, General Counsel, and Enforcement Manager agree that a violation did not occur or that the agency lacks jurisdiction over the complaint. However, the Executive Director may not dismiss a complaint if it has been reviewed by a Disciplinary Review Panel or the agency would be barred under Board rule §469.1 of this title (relating to Timeliness of Complaints) from reopening the complaint at the Board's next public meeting. At each public meeting of the Board, the Executive Director shall report to the Board each complaint dismissed since the Board's last public meeting, and the Board may then vote to reopen a complaint if it disagrees with the dismissal.
- (c) Any person who files a complaint will be notified by letter of the dismissal of the complaint and the legal basis or reason for the dismissal.
- (d) Notwithstanding subsection (a) of this section, the Executive Director is authorized to accept the voluntary resignation in

lieu of adjudication of a license. Board ratification is not required. The Executive Director shall report the number of such resignations accepted, along with a brief summary of the basis for those resignations to the Board at its regular meetings.

*Adopted to be effective: December 2, 1999*

*Amended: September 1, 2003; October 1, 2008; December 18, 2018*

**469.6. Temporary Suspension of a License.**

- (a) An executive committee of the Board, consisting of the Board Chair and two other Board members selected by the Board Chair, may temporarily suspend the license of a licensee under the Act without notice or hearing if the executive committee determines, based on evidence or information presented to the committee, that the continued practice by the licensee constitutes a continuing or imminent threat to the public welfare.
- (b) A temporary suspension under subsection (a) of this section may also be ordered on a majority vote of the Board at a scheduled Board meeting.
- (c) The effective date of the suspension will be either the date the executive committee votes to suspend the license, or the date that a majority of the Board votes to suspend the license.
- (d) If a license is temporarily suspended under subsection (a) of this section without notice or hearing, a hearing to determine whether or not disciplinary proceedings under this Act should be initiated against the licensee must be scheduled to be held before the executive committee not later than the 14th day after the effective date of suspension. Following this hearing, if a determination is made that no disciplinary proceedings should be initiated, any temporary suspension ordered shall be immediately terminated.
- (e) In the alternative, a license may be temporarily suspended by an executive committee following notice to the licensee and a hearing before the executive committee. An additional hearing within 14 days of the effective date of a temporary suspension entered pursuant to this subsection shall not be required, if the executive committee votes to temporarily suspend a license and determines that disciplinary proceedings under this Act should be initiated against the licensee.
- (f) Upon the temporary suspension of a license under this section, a second hearing on the suspended license shall be held not later than the 60th day after the effective date of the suspension, to determine whether the temporary suspension

should be continued pending a final disposition of any disciplinary action against the licensee. This second hearing shall be held before the State Office of Administrative Hearings in accordance with Board Rules and the Act. If the second hearing is not held in the time required by this rule, the suspended license is automatically reinstated, unless the delay was caused by the licensee or the licensee's agent.

*Adopted to be effective: December 2, 1999*

*Amended: September 1, 2003; October 1, 2008; March 19, 2012*

**469.7. Persons with Criminal Backgrounds.**

- (a) The Board may revoke or suspend an existing valid license, disqualify a person from receiving or renewing a license, or deny to a person the opportunity to be examined for a license due to a felony or misdemeanor conviction, or a plea of guilty or nolo contendere followed by deferred adjudication, if the offense directly relates to the performance of the activities of a licensee and the conviction directly affects such person's present fitness to perform as a licensee of this Board.
- (b) Criminal History Evaluation Letters.
  - (1) In compliance with Chapter 53 of the Texas Occupations Code, the Board will provide criminal history evaluation letters.
  - (2) A person may request the Board to provide a criminal history evaluation letter if the person is planning to enroll or is enrolled in an educational program that prepares the person for a license with this Board and the person has reason to believe that the person is ineligible for licensure due to a conviction or deferred adjudication for a felony or misdemeanor offense.
  - (3) The requestor must submit to the Board a completed Board application form requesting an evaluation letter, the required fee, and certified copies of court documentation about all convictions and resolution to the Board.
  - (4) Requestors must obtain a fingerprint criminal history record check after they have submitted an application for a criminal history evaluation letter.
  - (5) The Board has the authority to investigate a request for a criminal history evaluation letter and may require that the requestor provide additional information about the convictions and other dispositions if requested by the Board.
  - (6) The Board will provide a written response to the requestor within 90 days of the Board's receipt of the



request, unless a more extensive investigation is required or the requestor fails to comply with a Board investigation. The Board's evaluation letter will state the Board's determination on each ground for potential ineligibility presented by the requestor.

- (7) In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the Board at the time the letter is issued, the Board's ruling on the request determines the requestor's eligibility only with respect to the grounds for potential ineligibility set out in the letter.
- (c) The Board shall revoke an existing valid license, disqualify a person from receiving or renewing a license, or deny to a person the opportunity to be examined for a license due to a felony conviction under Section 35A.02 of the Texas Penal Code, concerning Medicaid fraud.
- (d) No person currently serving a sentence in a penal institution or correctional facility following a felony conviction is eligible to obtain or renew his/her license.
- (e) In determining whether a criminal conviction directly relates to the performance of a licensee, the Board shall consider the factors listed in the Texas Occupations Code, Chapter 53.
- (f) Those crimes which the Board considers as directly related to the performance of a licensee:
  - (1) offenses listed in Article 42A.054 of the Code of Criminal Procedure;
  - (2) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;
  - (3) any criminal violation of the Psychologists' Licensing Act;
  - (4) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;
  - (5) any criminal violation of Chapter 32, Subchapter B (Forgery) of the Penal Code;
  - (6) any criminal violation of Sections 32.42 (Deceptive Business Practices), 32.43 (Commercial Bribery), 32.45 (Misapplication of Fiduciary Property), 32.46 (Securing Execution of Document by Deception), 32.50 (Deceptive Preparation and Marketing of Academic Product), 32.51 (Fraudulent Use or Possession of Identifying Information), 32.52 (Fraudulent, Substandard, or Fictitious Degree), or 32.53

- (Exploitation of Child, Elderly or Disabled Individual) of the Penal Code;
- (7) any criminal violation of Chapter 37 (Perjury and Other Falsification) of the Penal Code;
  - (8) any offense involving the failure to report abuse;
  - (9) any criminal violation of Section 38.12 (Barratry and Solicitation of Professional Employment) of the Penal Code;
  - (10) any criminal violation involving a federal health care program, including 42 USC Section 1320a-7b (Criminal penalties for acts involving Federal health care programs);
  - (11) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of psychology; and
  - (12) any attempt, solicitation, or conspiracy to commit an offense listed herein.
- (g) In determining whether a criminal conviction directly affects present fitness of the licensee, the Board shall consider the factors listed in Texas Occupations Code, §53.023.
  - (h) It shall be the responsibility of the licensee to secure and provide to the Board the recommendations of the prosecution, law enforcement, and correctional authorities regarding all criminal offenses.
  - (i) The licensee shall also furnish proof in such form as may be required by the Board that he/she maintained a record of steady employment and has supported his/her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines and restitution as may have been ordered in all criminal cases in which he/she has been convicted.

*Adopted to be effective: December 2, 1999*

*Amended: September 1, 2003; March 3, 2008; June 5, 2008; December 3, 2009; September 13, 2010; December 18, 2017; April 10, 2018*

#### **469.8. Rehabilitation Guidelines.**

- (a) In the event of revocation or suspension of a license due to non-compliance with the rules of the Board and/or its ethical principles, the Board, in its discretion, may implement a plan of rehabilitation. The plan shall outline the steps the person must follow in order to be considered for relicensure or removal of suspension. Completion of the plan may lead to consideration of submission of an application for relicensure; removal of suspension; or removal of supervision requirements. In the event the licensee has not met the Board's criteria for rehabilitation, the plan may be revised,

expanded, and/or continued depending upon the progress of the rehabilitation program. The licensee, before beginning the options outlined in subsection (b) of this section, must address any outstanding complaints.

- (b) The Board may follow one or more options in devising a rehabilitation program:
  - (1) The individual may be supervised for a specified length of time in all or selected areas of activities related to his/her practice as a licensee by a licensed psychologist approved by the Board.
    - (A) The Board will specify the focus of the supervision.
    - (B) The Board will specify the number of hours per week required in a face-to-face supervisory contract.
    - (C) The supervisor will provide periodic and timely reports to the Board concerning the progress of the supervisee.
    - (D) Any fees for supervision time will be the responsibility of the supervisee.
  - (2) The individual may be expected to successfully complete a variety of appropriate educational programs. Appropriate educational formats may include but are not limited to workshops, seminars, courses in regionally accredited universities, or organized pre- or post-doctoral internship settings. Workshops or seminars which are not held in a setting of academic review (approved professional development) need prior approval of the Board. Any course of study must be approved by the Board prior to enrollment if it is to meet the criteria of a rehabilitation plan.
  - (3) The Board may require of the individual:
    - (A) psychodiagnostic evaluations by a psychologist approved by the Board;
    - (B) a physical examination including alcohol and drug screening by a physician approved by the Board;
    - (C) psychotherapy on a regular basis from a psychologist approved by the Board; or
    - (D) any other requirement that seems appropriate to the individual case.
  - (4) The Board may require the individual to:
    - (A) take or retake and pass the appropriate professional examination;

- (B) take or retake and pass the Jurisprudence Examination; or
- (C) complete any other requirement that seems appropriate to the individual case.

*Adopted to be effective: May 16, 2000*

*Amended: September 1, 2003; October 1, 2008; March 23, 2014; July 5, 2018*

**469.9. Complaints Alleging Violations of Court Orders or Education Law.**

- (a) No complaint will be processed against a licensee if such complaint is predicated upon a violation of a court order unless such complaint includes certified court documents which show that the court has decided that the licensee did violate the specific court order and the court's response to such violation.
- (b) Complaints Involving Standard of Care Issues in Schools:
  - (1) An individual wishing to file a complaint against a licensee for any matter relating to the identification, evaluation, or educational placement of or the provision of a free appropriate public education to a student, must first exhaust all administrative remedies available to that individual under §89.1150 of the Commissioner's Rules Concerning Special Education Services, Texas Education Agency. An individual that has gone through a due process hearing with the Texas Education Agency will be considered to have exhausted all administrative remedies.
  - (2) For purposes of this rule, the rule of limitations found in Board rule 469.1, of this title (relating to Timeliness of Complaints), shall not begin to run until all of the administrative remedies reference in subsection (b)(1) have been exhausted.
  - (3) Notwithstanding subsection (b)(1), an individual employed or contracted by the same public or private school as the licensee may file a complaint covered by subsection (b)(1) regardless of whether any administrative remedies available under state or federal education law are utilized by the parent or legal guardian of a student. A complaint brought under this provision shall be subject to the rule of limitations set forth in Board rule §469.1 of this title.
  - (4) This rule shall not operate to preclude any individual from filing a complaint against a licensee for any matter other than those described in subsection (b)(1), nor shall it operate to limit the Board's ability to bring

a complaint for any matter within the agency's jurisdiction.

*Adopted to be effective: December 2, 1999*

*Amended: September 26, 2017*

**469.10. Rules of Evidence in Contested Cases.** The rules of evidence described in the Administrative Procedure Act will be followed by the Board and its hearing officers. Considering that the Board commonly relies upon information presented to it in applications, written responses, and related documentation in the routine conduct of its affairs, including official decision-making in the processing of applications for licensure, evidence of a similar type will be considered and may be relied upon by the Board and its hearing officers in the conduct of the Board's affairs involving official decision-making in all matters relating to licensure, including disciplinary matters in contested cases.

*Adopted to be effective: December 2, 1999*

**469.11. Legal Actions Reported and Reciprocal Discipline.**

- (a) Licensees are required to report legal actions as follows:
- (1) Any conviction, sentence, dispositive agreement, or order placing the licensee on community supervision or pretrial diversion, must be reported in writing to the Board within thirty days of the underlying event. A report must include the case number, court, and county where the matter is filed, together with a description of the matter being reported. A licensee shall provide copies of court documents upon request from agency staff.
  - (2) Any lawsuit brought by or against a licensee concerning or related to the delivery of psychological services or billing practices by the licensee. A report must include a copy of the initial pleading filed by or served upon the licensee, and must be submitted to the Board within thirty days of either filing by or service upon the licensee.
  - (3) A complaint shall be opened if a reported criminal action constitutes grounds for disciplinary action as set forth in the Act at §501.401. A complaint may be opened if a reported civil action constitutes grounds for disciplinary action under Board rules.
  - (4) Any administrative or disciplinary action initiated against a licensee by another health regulatory agency in this state or any other jurisdiction, or any agency or office within the federal government, must be reported to the Board by sending notification of the action

within thirty days of the licensee receiving notice of the action. A report must include a copy of any complaint, notice of violation, or other documentation received by the licensee from the initiating entity which describes the factual basis for the action. A licensee must also supplement his or her report to the Board with a copy of any order, letter, or determination setting forth the final disposition of the matter within thirty days following the final disposition.

- (b) Reciprocal Discipline:
  - (1) A complaint shall be opened upon receipt of a report of discipline against a licensee by another health licensing board in this state or any other jurisdiction.
  - (2) The disciplinary action imposed on a licensee who is disciplined by another health licensing board will be the discipline applicable to the same conduct or rule violation under Board rules.
  - (3) A voluntary surrender of a license in lieu of disciplinary action or during an investigation by another health licensing board constitutes disciplinary action under this rule. A complaint shall be opened and the disciplinary action imposed will be the discipline applicable under Board rules to the alleged conduct as if proved.

*Adopted to be effective: May 21, 2009*

*Amended: April 19, 2016*

**469.12. Suspension of License for Failure to Pay Child Support.**

- (a) On receipt of a final court or attorney general's order suspending a license due to failure to pay child support, the executive director shall immediately determine if the Board has issued a license to the obligor named on the order, and, if a license has been issued:
  - (1) enter an order of suspension of the license;
  - (2) report the suspension as appropriate; and
  - (3) demand surrender of the suspended license.
- (b) The Board shall implement the terms of a final court or attorney general's order suspending a license without additional review or hearing. The Board will provide notice as appropriate to the licensee or to others concerned with the license.
- (c) The Board may not modify, remand, reverse, vacate, or stay a court or attorney general's order suspending a license issued under the Texas Family Code, Chapter 232, and may not review, vacate, or reconsider the terms of an order.

- (d) A licensee who is the subject of a final court or attorney general's order suspending his or her license is not entitled to a refund for any fee paid to the Board.
- (e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section shall comply with the normal renewal procedures in the Act and this chapter; however, the license will not be renewed until subsections (g) and (h) of this section are met.
- (f) An individual who continues to engage in the practice of psychology or continues to use the titles "Licensed Psychologist," "Provisionally Licensed Psychologist," "Licensed Psychological Associate," "Licensed Specialist in School Psychology" or the initials "L.P.," "P.L.P.," "L.P.A.," or "L.S.S.P." after the issuance of a court or attorney general's order suspending the license is liable for the same civil and criminal penalties provided for engaging in the prohibited activity without a license or while a license is suspended as any other license holder of the Board.
- (g) On receipt of a court or attorney general's order vacating or staying an order suspending a license, the executive director shall promptly issue the affected license to the individual if the individual is otherwise qualified for the license.
- (h) The individual must pay a reinstatement fee in an amount equal to the annual renewal fee set out in Board rule §473.3 of this title (relating to Annual Renewal Fees) prior to issuance of the license under subsection (g) of this section.
- (i) In compliance with Chapter 232, Family Code, upon notice from a child support agency that a licensee has failed to pay child support for six months or more, and requests that the Board refuse to renew the license, the Board will not accept an application for renewal until it is notified by the child support agency that the licensee has met requirements set by law. The Board may charge the licensee a fee for such a denial of renewal.

*Adopted to be effective: December 2, 1999*

*Amended: March 3, 2008; October 1, 2008*

#### **469.14. Monitoring of Licensees.**

- (a) The Compliance Committee is responsible for monitoring licensees who are ordered by the Board to perform certain acts. The Compliance Committee ascertains that the licensee performs the required acts within the designated time period.
- (b) The Compliance Committee is responsible for implementing the Board's preventative approach to enforcement of the Act and the Rules of the Board by identifying and monitoring licensees who represent a risk to the public.

*Adopted to be effective: December 2, 1999*  
*Amended: September 1, 2003; October 1, 2008*

**469.15. Disciplinary Action for Persons with Dual Licensure.**

Disciplinary Action for Persons with Dual Licensure. A disciplinary action taken by the Board against a licensee is considered a disciplinary action against all licenses that the licensee holds with the Board.

*Adopted to be effective: September 1, 2003*



## **ADMINISTRATIVE PROCEDURE**

**470.1. Objective and Scope.** The objective of this chapter is to obtain a just, fair, and equitable determination of any matter within the jurisdiction of the Board. To the end that this objective may be attained with as great expedition and at the least expense as possible to the parties and the State, the provisions of this chapter shall be given a liberal construction. The provisions of this chapter govern the procedure for the institution, conduct, and determination of all proceedings before the Board. The provisions of the Administrative Procedure Act (APA), Government Code, Chapter 2001, govern where ambiguity or differences exist between the provisions of this chapter and APA.

*Adopted to be effective: December 2, 1999*

**470.2. Definitions.** The following terms have the following meanings:

- (1) Act--The Psychologists' Licensing Act, Texas Occupations Code, Title 3, Subtitle I, Chapter 501.
- (2) Administrative Law Judge (ALJ)--An individual appointed by the Chief Administrative Law Judge of the State Office of Administrative Hearings (SOAH) under Government Code, Chapter 2003, §2003.041.
- (3) Agency--The Board and all divisions, departments and employees thereof.
- (4) Administrative Procedure Act (APA)--Government Code, Chapter 2001, as amended.
- (5) Applicant--A party seeking a license from the Board.
- (6) Authorized representative--An attorney authorized to practice law in the State of Texas or, if authorized by applicable law, a person designated by a party to represent the party.
- (7) Board--The nine-member Texas State Board of Examiners of Psychologists.
- (8) Board member--One of the members of the Board, appointed pursuant to the Act, §501.051, and qualified under the Act, §501.051, §501.052 and §501.053.
- (9) Chair--The chairperson of the Board.
- (10) Complainant--A party bringing a complaint under the Act.
- (11) Complaint--An action over which the Board has jurisdiction filed against any individual who violates the Act and/or Rules of the Board.
- (12) Contested case--A proceeding, including, but not restricted to licensing and disciplinary action in which the legal rights, duties, or privileges of a party are to

be determined by the Board after an opportunity for an adjudicative hearing.

- (13) Disciplinary Review Panel--Committee appointed by the Chair, including at least one public member, to conduct informal settlement conferences concerning disciplinary actions and to make recommendations to the Board.
- (14) Executive Director--The executive director of the Board designated in accordance with the Act, §501.101.
- (15) License--The whole or part of any agency permit, approval, registration, or similar form of permission required by law.
- (16) Licensee--Any individual or person to whom the agency has issued any permit, certificate, approved registration, or similar form of permission authorized by law.
- (17) Licensing--The agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.
- (18) Official act--Any act performed by the Board pursuant to a duty, right or responsibility imposed or granted by law.
- (19) Party--Each person or agency named or admitted to participate as a party before the Board or the State Office of Administrative Hearings.
- (20) Person--An individual, representative, corporation, or an agency or instrumentality of government.
- (21) Pleading--A written document submitted by a party or a person seeking to participate in a case as a party, which requests procedural or substantive relief, makes claims, alleges facts, makes legal argument, or otherwise addresses matters involved in the case.
- (22) Presiding officer--The chair, the acting chair of the Board, or a duly authorized administrative law judge while acting with respect to a hearing.
- (23) Public health agency--The Board is a public health agency.
- (24) Respondent--An individual over whom the Board has jurisdiction and against whom a complaint is filed.
- (25) Rule--Any agency statement of general applicability that implements or prescribes law or policy by defining general standards of conduct, rights, or obligations of persons, or describes the procedure or practice requirements that prescribe the manner in which public business before an agency may be initiated, scheduled, or conducted, or interprets or clarifies law

or agency policy, whether with or in the absence of an explicit grant of power to the agency to make rules. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of the agency and not affecting private rights or procedures. This definition includes regulations.

- (26) State Office of Administrative Hearings (SOAH)--The agency to which contested cases are referred by the Texas State Board of Examiners of Psychologists.
- (27) Texas Public Information Act--Texas Government Code, Chapter 552.

*Adopted to be effective: December 2, 1999*

*Amended: October 1, 2000; July 8, 2001; December 20, 2005; March 12, 2007; December 3, 2009*

**470.3. Construction.**

- (a) A provision of a section referring to the Board is construed to apply to the Board or the chair if the matter is within the jurisdiction of the Board.
- (b) Unless otherwise provided by law, any duty imposed on the Board or chair may be delegated to a duly authorized representative. In such case, the provisions of any section referring to the Board or the chair shall be construed to also apply to the duly authorized representative or chair.

*Adopted to be effective: December 2, 1999*

**470.4. Records of Official Action.** All official acts of the Board shall be evidenced by a recorded or written record.

- (1) The minutes of the Board shall constitute a written record. Such writings shall be open to the public in accordance with the Act and the Texas Open Records Act, Government Code Chapter 552. The Board may, in its discretion and in accordance with the open meetings law, Chapter 551, Government Code, conduct any portion of its meeting in executive session.
- (2) The Board may in its discretion conduct deliberations relative to licensee disciplinary actions in executive session. At the conclusion of its deliberations relative to licensee disciplinary action, the board shall vote and announce its decision relative to the licensee in open session.
- (3) Official action of the Board shall not be bound or prejudiced by any informal statement or opinion made

by any member of the Board or the employees of the agency staff.

*Adopted to be effective: December 2, 1999*

*Amended: March 12, 2007*

**470.5. Conduct and Decorum.**

- (a) Parties, authorized representatives, witnesses, and other participants in Board proceedings shall conduct themselves with proper dignity, courtesy, and respect for the Board, the executive director, the administrative law judge, and all other participants. Disorderly conduct will not be tolerated.
- (b) All authorized representatives shall observe the standards of ethical conduct prescribed for their professions.
- (c) The presiding officer may, at his or her discretion, exclude a violator of this rule from the proceeding for such period as is deemed just.
- (d) Violation of rule 470.5 is grounds for imposition of Board disciplinary action.

*Adopted to be effective: December 2, 1999*

*Amended: March 12, 2007*

**470.6. Agreement to be in Writing.** Unless otherwise provided in these rules, no agreement between the parties or their authorized representatives regarding any contested case or other matter before the Board shall be enforced unless it is in writing, signed, and filed with the Board, or unless it is entered on the record at a hearing.

*Adopted to be effective: December 2, 1999*

*Amended: March 12, 2007*

**470.8. Informal Disposition of Complaints.**

- (a) Complaints.
  - (1) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, default, or dismissal in accordance with §2001.056 of the Administrative Procedure Act.
  - (2) Prior to the imposition of disciplinary sanction(s) against a license, the licensee shall be offered an opportunity to attend an informal conference and show compliance with all requirements of law, in accordance with §2001.054(c) of the Administrative Procedure Act.
  - (3) Informal conferences shall be conducted by the Chair of the Disciplinary Review Panel. The conference shall also be attended by the designated representative, legal counsel of the agency or an attorney employed by

the office of the attorney general, and other representative(s) of the agency as the executive director and legal counsel may deem necessary for proper conduct of the conference. The licensee and/or the licensee's authorized representative(s) may attend the informal conference and shall be provided an opportunity to be heard and to present witnesses, affidavits, letters, reports, and any information deemed relevant for the Board's consideration in the matter. The licensee's attendance and participation is voluntary.

- (4) In any case where charges are based upon information provided by a person (complainant) who filed a complaint with the Board, the complainant may attend the informal conference. A complainant who chooses to attend an informal conference shall be provided an opportunity to be heard, at a time separate from the respondent, with regard to violations based upon the information provided by the complainant. Nothing herein requires a complainant to attend an informal conference.
  - (5) Informal conferences shall not be deemed meetings of the Board and no formal record of the proceedings at such conferences shall be made or maintained. Any informal record of conferences shall be made by mechanical or electronic means at the discretion of the Committee Chair.
  - (6) Any proposed consent order shall be presented to the Board for its review. At the conclusion of its review, the Board shall approve or disapprove the proposed consent order. Should the Board approve the proposed consent order, the appropriate notation shall be made in the minutes of the Board; and the proposed consent order shall be entered as an official action of the Board. Should no agreement be entered into, the Board may refer the matter to SOAH for a formal hearing.
- (b) Confidentiality of Informal Settlement Conferences. The Panel may take any and all steps necessary to ensure the confidentiality of the informal settlement conference in accordance with §501.205 of the Act, including, but not limited to, conducting the entirety of the conference in executive session.

*Adopted to be effective: December 2, 1999*

*Amended: May 16, 2000; October 1, 2000; July 8, 2001; July 9, 2002*

**470.9. Witness Fees.** Persons appearing as witnesses before the Board in an administrative hearing process (i.e., depositions, hearings, meetings, etc.) will receive reimbursement for expenses incurred. These expenses include travel, lodging, and up to \$40 per day for meals and other expenses. Airfare is reimbursed at the lowest available fare.

*Adopted to be effective: March 12, 2007*

*Amended: June 5, 2008*

**470.10. Subpoenas.** On its own motion or, on the written request of any party to a contested case pending before it, for good cause shown and on deposit of sums that will reasonably ensure payment of the amounts estimated to accrue under Administrative Procedure Act, Tex. Gov't Code Ann. §2001.103 (relating to expenses of witness or deponent), the agency shall issue a subpoena addressed to the sheriff or to a constable to require the attendance of a witness or the production of books, records, papers, or other objects that may be necessary and proper for the purpose of a proceeding.

*Adopted to be effective: December 2, 1999*

*Amended: September 22, 2009*

**470.11. Service in Non-Rulemaking Proceedings.** Where service of notice by the agency is required, all parties shall be notified either personally, by first class mail, or by certified mail, return receipt requested, to the party's last known mailing address as shown in Board records. If any party has appeared by attorney or other representative, service shall be made by the methods above upon such attorney or representative.

*Adopted to be effective: July 9, 2002*

**470.12. Contested Cases Referred to the State Office of Administrative Hearings.**

Unless otherwise provided by statute, contested cases referred by the Board to the State Office of Administrative Hearings pursuant to the Administrative Procedure Act (APA), Texas Government Code, Chapter 2001, will be governed by the rules of practice and procedure in accordance with Title 1, Chapter 155 of the Texas Administrative Code and applicable sections of the APA.

*Adopted to be effective December 2, 1999*

**470.15. Proposal for Decision.**

(a) In a contested case, upon completion of the hearing before SOAH, the ALJ shall prepare a proposal for decision to the agency and serve a copy of the proposal for decision upon each party. The Board may request that the proposal for decision be presented to the board by the ALJ at the next scheduled Board meeting.

- (b) A proposal for decision shall contain a statement by the ALJ of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision.
- (c) Upon issuance of a proposal for decision by an ALJ in a contested case, any party may file written exceptions to the proposal for decision within fifteen (15) days after its issuance. Within fifteen (15) days after a party files written exceptions under this section, any other party may file a written reply.
- (d) A proposal for decision may be amended by the ALJ in response to exceptions, replies and/or briefs submitted by the parties without again being served on the parties.

*Adopted to be effective: December 2, 1999*

*Amended: March 12, 2007*

**470.16. Final Decision.**

- (a) Any final decision or order adverse to a party in a contested case shall be in writing.
- (b) A final decision shall include findings of fact and conclusions of law, separately stated.
- (c) A party in a contested case shall be notified either personally or by first class mail of any decision or order.
- (d) When the Board issues a final decision or order ruling on a motion for rehearing, the agency shall send a copy of that final decision or order by first class mail to the attorney of record and to the represented party. The agency shall keep an appropriate record of the mailing.
- (e) A party or attorney of record notified by mail of a final decision or order as required by this subsection shall be presumed to have been notified on the date such notice is mailed.
- (f) A decision in a contested case is final:
  - (1) if a motion for hearing is not filed on time, on the expiration of the period for filing a motion for rehearing;
  - (2) if a motion for rehearing is filed on time, on the date:
    - (A) the order overruling the motion for rehearing is rendered; or
    - (B) the motion is overruled by operation of law;
  - (3) if the Board finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a decision or order, on the date the decision is rendered; or
  - (4) on the date specified in the order for a case in which all parties agree on the specified date in writing or on

the record, if the specified date is not before the date the order is signed or later than the 20th day after the date the order was rendered.

- (g) If a decision or order is final under subsection (f)(3), the Board shall recite in the decision or order the finding made under Subsection (f)(3) and the fact that the decision or order is final and effective on the date rendered.
- (h) As the Board has been created by the legislature to protect the public interest as an independent agency of the executive branch of the government of the State of Texas so as to remain the primary means of licensing and regulating the practice of psychology consistent with federal and state law and to ensure that sound principles of psychology govern the decisions of the Board, the Board may, in accordance with §2001.058 of the APA, change a finding of fact or conclusion of law or to vacate or modify the proposed order of an ALJ, if the Board determines:
  - (1) that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies provided under §2001.058(c), or prior administrative decisions;
  - (2) that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or
  - (3) that a technical error in a finding of fact should be changed.
- (i) If the Board modifies, amends or changes the ALJ's proposal for decision, an order shall be prepared reflecting the Board's changes as stated in the record.

*Adopted to be effective: December 2, 1999*  
*Amended: March 12, 2007*

#### **470.17. Motion of Rehearing.**

- (a) A motion for rehearing is a prerequisite to appeal from a Board's final decision or order in a contested case. A motion for rehearing shall be filed and handled in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.
- (b) The Executive Director is authorized to grant or deny, at his or her own discretion, requests to extend the deadline for filing a motion for rehearing in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.
- (c) In the event of an extension, the motion for rehearing may be overruled by operation of law in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.

*Adopted to be effective: December 2, 1999*  
*Amended: June 24, 2019*



- 470.18. The Record.** The record in a contested case includes:
- (1) each pleading, motion, and intermediate ruling;
  - (2) evidence received or considered by the Board;
  - (3) a statement of matters officially noticed;
  - (4) questions and offers of proof, objections, and rulings on them;
  - (5) proposed findings of fact and conclusions of law, as well as exceptions thereto;
  - (6) each decision, opinion, or report made by the administrative law judge; and
  - (7) all staff memoranda or data submitted to or considered by the administrative law judge or Board decision makers.

*Adopted to be effective: July 9, 2002*

*Amended: March 12, 2007*

- 470.19. Costs of Appeal.** A party appealing a final decision of the Board in a contested case may be ordered by the Board to pay all or a part of the cost of preparation of the original or a certified copy of the record of the proceeding that is required to be transmitted to the reviewing Court.

*Adopted to be effective: December 2, 1999*

- 470.20. Computation of Time.** In computing time periods prescribed by these rules, or by order of the agency, the day of the act, event or default on which the designated period of time begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday, or legal holiday, in which case the time period will end on the next day that the agency is open.

*Adopted to be effective: July 9, 2002*

**470.21. Disciplinary Guidelines.**

- (a) Purpose. The Purpose of the guidelines is to:
  - (1) Provide guidance and a framework of analysis for administrative law judges in the making of recommendations in contested licensure and disciplinary matters;
  - (2) Promote consistency in the exercise of sound discretion by the Board in the imposition of sanctions in disciplinary matters; and
  - (3) Provide guidance for the resolution of potentially contested matters.
- (b) Limitations. The Board shall render the final decision in a contested case and has the responsibility to assess sanctions against licensees who are found to have violated the Act. The

Board welcomes recommendations of administrative law judges as to the sanctions to be imposed, but the Board is not bound by such recommendations. A sanction should be consistent with sanctions imposed in other similar cases and should reflect the Board's determination of the seriousness of the violation and the sanction required to deter future violations. A determination of the appropriate sanction is reserved to the Board. The appropriate sanction is not a proper finding of fact or conclusion of law. This chapter shall be construed and applied so as to preserve the Board's discretion in the imposition of sanctions and remedial measures pursuant to the Act's provisions related to methods of discipline and administrative penalties. This chapter shall be further construed and applied so as to be consistent with the Act, and shall be limited to the extent as otherwise proscribed by statute and Board rule.

- (c) The Board's rules concerning disciplinary guidelines, schedule of sanctions, and aggravating and mitigating circumstances are not intended to be exhaustive. The Board may recommend revocation for licensees who violate one or more Board rules.
- (d) **Disciplinary Sanctions.** If the Board does not revoke a license in connection with a disciplinary matter, it may impose the following disciplinary sanctions which are listed in descending order of severity:
  - (1) Suspension for a definite period of time;
  - (2) Suspension plus probation of any or all of the suspension period;
  - (3) Probation of the license for a definite period of time;
  - (4) Reprimand; and
  - (5) Administrative penalty.
- (e) **Additional conditions.** As terms of any sanction imposed by the Board upon a licensee pursuant to a disciplinary matter the Board may, at its discretion, impose any additional conditions and/or restrictions upon the license of the licensee that the Board deems necessary to facilitate the rehabilitation and education of the licensee and to protect the public, including but not limited to:
  - (1) Consultation with the licensee on matters of ethics rules, laws and standards of practice by a licensed psychologist approved by the Board;
  - (2) Restrictions on the licensee's ability to provide certain types of psychological services or to provide psychological services to certain classes of patients;
  - (3) Restrictions on the licensee's supervision of others in the practice of psychology;

- (4) Completion of a specified number of continuing education hours on specified topics approved in advance by the Board in addition to any minimum number required of all licensees as a condition of licensure;
  - (5) Taking and passing with the minimum required score of any examination required by the Board of a licensee;
  - (6) Undergoing a psychological and/or medical evaluation by a qualified professional approved in advance by the Board and undergoing any treatment recommended pursuant to the evaluation;
  - (7) Writing a research paper on a specific topic;
  - (8) Any other condition reasonably related to the rehabilitation and education of the licensee.
- (f) The length of the sanction period shall be determined by the Board taking into account the time reasonably required to complete the required terms and conditions set forth in the order imposing the sanction.

*Adopted to be effective: December 2, 1999*

*Amended: May 16, 2000; July 8, 2001; July 9, 2002; December 20, 2005; May 30, 2007; March 3, 2008; September 19, 2012; July 5, 2018*

**470.22. Schedule of Sanctions.**

- (a) These disciplinary sanction guidelines are designed to provide guidance in assessing sanctions for violations of the Psychologists' Licensing Act and Board Rules of conduct. The ultimate purpose of disciplinary sanctions is to protect the public, deter future violations, offer opportunities for rehabilitation if appropriate, punish violators, and deter others from violations. These guidelines are intended to promote consistent sanctions for similar violations, facilitate timely resolution of cases, and encourage settlements.
- (1) Single Violation. The standard sanctions outlined below shall apply to cases involving a single violation of the Act, and in which there are no aggravating or mitigating factors that apply.
  - (2) Multiple Violations. The board may impose more restrictive sanctions when there are multiple violations of the Act.
  - (3) Aggravating and Mitigating Factors. The Board may impose more or less severe or restrictive sanctions, based on any aggravating and/or mitigating factors listed in §470.23 of this chapter (relating to Aggravating and Mitigating Circumstances) that are found to apply in a particular case.

- (4) The standard and minimum sanctions outlined below are applicable to first time violators. The Board shall consider more severe sanctions if the person is a repeat offender.
- (5) The maximum sanction in all cases is revocation of the license, which may be accompanied by an administrative penalty of up to \$1,000 per violation. In accordance with §501.452 of the Act, each day the violation continues is a separate violation.
- (6) Each violation constitutes a separate offense, even if arising out of a single act.
- (7) Failure to list a type of violation or Board Rule in this rule does not prevent the Board from taking disciplinary action for such a violation.
- (8) If a sanction for a violation of Board Rules is not listed in this rule, or specifically stated elsewhere in laws, the default sanction shall be a reprimand.
- (9) Notwithstanding paragraph (8) of this subsection, the Board will evaluate and determine, on a case-by-case basis, the appropriate sanction for an individual with a qualifying conviction under §501.401(2) of the Act, as well as for an individual found to be incompetent under §501.158 of the Act.

(b) The following standard sanctions shall apply to violations of the Act and Rules:

<u>Board Rule</u>	<u>Revocation</u>	<u>Suspension</u>	<u>Probated Suspension</u>	<u>Reprimand</u>	<u>Administrative Penalty</u>
461.6					X
461.7			X		
461.11			X		
461.15		X			
461.16			X		
465.2				X	
465.3					X
465.4				X	
465.6(a)-(c)				X	
465.6(d)					X
465.7					X
465.8			X		
465.9(a), (d), (e), & (f)			X		
465.9(b)-(c) & (g)-(j)				X	
465.10			X		
465.11				X	
465.12(a) & (d)-(i)			X		

465.12(b) & (c)				X	
465.13(a)(1)-(3) & (b)(4)		X			
465.13(a)(4)-(5) & (b)(1)-(2) & (5)			X		
465.13(b)(3) & (6)	X				
465.14				X	
465.15(a) & (b)(2)-(5)				X	
465.15(b)(1)	X				
465.16(a)				X	
465.16(b)-(d)			X		
465.17(a)(1)-(2)			X		
465.17(a)(3)	X				
465.17(b)				X	
465.18(a)-(c) & (e)-(h)			X		
465.18(d)				X	
465.20				X	
465.21			X		
465.22(a)(1)-(6) & (b)-(e)				X	
465.22(a)(7)		X			
465.32					X
465.33(e) as it relates to sexual harassment and sexual impropriety			X		
465.33(e) as it relates to a sexual relationships and (g)	X				
465.33(f)		X			
465.34				X	
465.35(a) & (b)				X	
465.35(c)			X		
465.37				X	
465.38				X	
469.2					X
469.7(a), (c), & (f)	X				
469.9			X		
469.11(a)					X
471.5					X

*Adopted to be effective: December 20, 2005*

*Amended: March 12, 2007; March 23, 2014; July 5, 2018, December 18, 2018*

**470.23. Aggravating and Mitigating Circumstances.**

- (a) Aggravating Circumstances. Aggravating circumstances are those which may increase the severity of a rule violation,

justifying the imposition of a more severe penalty. Such circumstances include but are not limited to the following:

- (1) Patient harm and the type and severity thereof;
- (2) Economic harm to any individual or entity and the severity thereof;
- (3) Increased potential for harm to the public;
- (4) Attempted concealment of misconduct;
- (5) Premeditated conduct;
- (6) Intentional misconduct;
- (7) Prior written warnings or written admonishments from any supervisor or governmental agency or official regarding statutes or regulations pertaining to the licensee's practice of psychology;
- (8) Prior misconduct of a similar or related nature;
- (9) Disciplinary history;
- (10) Likelihood of future misconduct of a similar nature;
- (11) Violation of a Board order;
- (12) Failure to implement remedial measures to correct or alleviate harm arising from the misconduct;
- (13) Lack of rehabilitative potential;
- (14) Motive and intent; and
- (15) Any relevant circumstances or facts increasing the level of violation.

(b) **Mitigating Circumstances.** Mitigating circumstances are those which may reduce the severity of a less severe penalty. Such circumstances include the absence of aggravating circumstances listed above as and the presence of one or more of the following:

- (1) Acceptance of responsibility;
- (2) Self-reported rule violations;
- (3) Implementation of remedial measures to correct or mitigate harm arising from the misconduct;
- (4) Motive;
- (5) Rehabilitative potential;
- (6) Prior community service;
- (7) Relevant facts and circumstances reducing the seriousness of the violation; and
- (8) Relevant facts and circumstances lessening responsibility for the violation.

*Adopted to be effective: December 20, 2005*

*Amended: March 12, 2007*

#### **470.24. Enforcement of Orders, Decisions, and Rules.**

- (a) When it appears to the Board that a person is violating, about to violate, or failing or refusing to comply with a final order or decision or an agency rule, the agency may request

that the attorney general bring an action in a district court in Travis County, Texas to exercise judicial review of the final order or decision or the rule, to

- (1) enjoin or restrain the continuation or commencement of the violation, or
- (2) compel compliance with the final order or decision or the rule.

- (b) The action authorized by this rule is in addition to any other remedy provided by law.

*Adopted to be effective: December 2, 1999*

*Amended: March 12, 2007*

## **RENEWALS**

### **471.1. Renewal of a License.**

- (a) All licenses issued by the Board shall be subject to annual renewal through August 31, 2019. Effective September 1, 2019, all licenses issued by this agency are renewable on a biennial basis and must be renewed online.
- (b) Renewals are due on the last day of the license holder's birth month, but may be completed up to 60 days in advance.
- (c) Licensees must pay all applicable renewal and late fees, indicate compliance with the professional development requirements set out in Board rule §461.11 of this title (relating to Professional Development), provide a standardized set of information about their training and practices or update this information prior to renewal, and comply with any other requirements set out in agency renewal forms as a prerequisite for renewal of a license. Licensed psychologists must also update their online profile information when renewing their license. A license may not be renewed until a licensee has complied with the requirements of this rule.
- (d) A licensee who falsely reports compliance with Board rule §461.11 of this title on his or her renewal form or who practices with a license renewed under false pretenses will be subject to disciplinary action.
- (e) Licensees will be sent notification of their approaching renewal date at least 30, but not more than 90 days before their renewal date. This notification will be sent to the licensee's address of record via first class mail. Responsibility for renewing a license rests exclusively with the licensee, and the failure of the licensee to receive the reminder notification from the Board shall not operate to excuse a licensee's failure to timely renew a license. Licensees who do not timely renew their license will be sent a second notice informing them that their license has become delinquent. The second notice will be sent to the licensee's address of record via certified or register mail. Failure of a licensee to receive the second notification shall not operate to excuse the failure to timely renew a license or any unlawful practice with a delinquent license.
- (f) Notwithstanding subsection (a) of this section, effective September 1, 2019 one-half of the individuals licensed by this agency will be selected and required to renew their license(s) on a one-time basis for one year, after which their



renewal period will be automatically converted to the biennial renewal period. The renewal fee for a license renewed under this subsection shall be one-half of the biennial renewal fee for the particular license, together with the appropriate Office of Patient Protection and Texas.gov subscription fees. The professional development requirements for a license renewed under this paragraph shall also be reduced to one-half of the professional development requirements under Board rule §461.11 of this title.

*Adopted to effective: March 29, 2017*

*Amended: September 5, 2019*

**471.3. Initial License Renewal Dates.**

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

*Adopted to be effective: September 5, 2019*

**471.4. Nonrenewal for Default of Guaranteed Student Loan.**

- (a) The Board will not renew the license of a licensee identified by the Texas Guaranteed Student Loan Corporation as a person in default on a guaranteed student loan or repayment agreement, unless the licensee presents the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating that they are not in default on a guaranteed loan or that they have entered into a repayment agreement.

- (b) Prior to the nonrenewal of any license under this rule, a licensee shall be notified that the Texas Guaranteed Student Loan Corporation has identified the licensee as being in default on a guaranteed student loan or repayment agreement. If the licensee then submits a certificate from the Texas Guaranteed Student Loan Corporation indicating that they are not in default on a guaranteed loan or that they have entered into a repayment agreement, the licensee will be permitted to renew their license. Alternatively, the licensee may submit a written request to the Board for a hearing at which the licensee may present the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating they are not in default on a guaranteed loan or that they have entered into a repayment agreement. The Board must receive the request for a hearing on or before the 30th day following the date of the notice sent to the licensee. If a timely request is made, the Board shall conduct a hearing at the next available board meeting. If a timely request is not made, no hearing will be held and the licensee's license will not be renewed unless prior to their renewal date, the licensee provides the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating they are not in default on a guaranteed loan or that they have entered into a repayment agreement.

*Adopted to be effective: September 26, 2013*

- 471.5. Updated Information Requirements.** Each licensee shall provide the following information when renewing his/her license each year:
- (1) Any of those matters which the licensee is required to report under Board rule §469.11 of this title (relating to Legal Actions Reported and Reciprocal Discipline.
  - (2) The names of all jurisdictions where the licensee currently holds a license to practice psychology;
  - (3) If the licensee has complied with the annual requirements for professional development;
  - (4) If the licensee has a guaranteed student loan in default; and
  - (5) If the licensee is currently in default of any court-ordered child support.

*Adopted to be effective: September 16, 1991*

*Amended: January 2, 1995; August 27, 1998; January 26, 1999; September 3, 2006; March 12, 2007; September 10, 2007; March 23, 2014; March 26, 2015; December 25, 2016*

**471.6. Renewal Terms Exclusive to Licensees on Active Military Duty.**

- (a) Licensees serving on active duty, as defined by Tex. Occ. Code Ann. §55.001, may request a waiver from the professional development requirements and renewal fees associated with the renewal of their license. Licensees who submit a written request to the Board prior to their renewal date each renewal period, and provide the Board with official verification of active duty status during their renewal period, will be granted a waiver from the professional development requirements and renewal fees associated with the renewal of their license for the 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 above 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: December 27, 2015*

*Amended: September 5, 2019*

## **FEES**

### **473.1. Application Fees.**

- (a) Application Fees for Original or Initial Applications for Licensure:
  - (1) Licensed Psychological Associate: \$300
  - (2) Provisionally Licensed Psychologist: \$445
  - (3) Licensed Psychologist: \$381
  - (4) Licensed Specialist in School Psychology: \$275
- (b) Application Fee for Reinstatement of a License--\$200
- (c) In addition to the application fees set forth above, applicants must also pay a \$5 Office of Patient Protection fee for each application submitted.
- (d) Application fees are nonrefundable and cannot be waived except as otherwise stated herein.
- (e) All license application fees payable to the Board are waived for the following individuals:
  - (1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all of the requirements for licensure; and
  - (2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this state.

*Adopted to be effective: February 8, 1982*

*Amended: April 2, 1984; February 1, 1989; September 16, 1991; January 31, 1992; May 18, 1992; February 21, 1994; April 25, 1996; August 27, 1998; December 2, 1999; July 9, 2002; January 1, 2004; March 3, 2008; September 4, 2014; December 27, 2015; September 5, 2019*

### **473.2. Examinations Fees (Not Refundable).**

- (a) Generally Applicable Examination Fees:
  - (1) Examination for the Professional Practice of Psychology--\$600
  - (2) Jurisprudence Examination--\$234. A portion of this fee, \$34, goes to the third-party vendor that administers the examination on behalf of the Board.
- (b) The portion of the Jurisprudence Examination fee attributable to the Board, shall be waived for the following individuals:
  - (1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations

Code, whose military service, training, or education substantially meets all of the requirements for licensure; and

- (2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this state.

*Adopted to be effective: February 8, 1982*

*Amended: April 2, 1984; October 9, 1986; February 1, 1989; August 31, 1993; August 27, 1998; December 18, 2000; July 9, 2002; March 12, 2013; September 4, 2014; December 27, 2015; December 18, 2017; June 24, 2019*

**473.3. Biennial Renewal Fees (Not Refundable).**

- (a) Biennial License Renewal Fees:
  - (1) Licensed Psychological Associate: \$230;
  - (2) Provisionally Licensed Psychologist: \$220;
  - (3) Licensed Psychologist: \$412; and
  - (4) Licensed Specialist in School Psychology: \$120.
- (b) Notwithstanding subsection (a) of this section, the license renewal fee is \$20 for an individual 70 years of age or older, regardless of the type of license held.
- (c) The renewal fee for the Psychologist Health Service Provider status issued by this agency is \$40.
- (d) In addition to the renewal fees set forth above, licensees must also pay the following fees in connection with the renewal of a license:
  - (1) A \$1 Office of Patient Protection fee for each year in the renewal period; and
  - (2) A Texas.gov subscription fee for each year in the renewal period in the following amount(s):
    - (A) \$5 per license for psychologists;
    - (B) \$3 per license for provisionally licensed psychologists and licensed psychological associates; and
    - (C) \$2 per license for licensed specialist in school psychology.
- (e) Notwithstanding subsection (d) of this section, licensees 70 years of age and older must pay a \$2 Texas.gov subscription fee per license, regardless of the license type

*Adopted to be effective: September 5, 2019*

**473.4. Late Fees for Renewals.**

- (a) For a license expired ninety days or less, a licensee must pay a late fee in an amount equal to one and one-half times the required renewal fee.
- (b) For a license expired more than ninety days but less than one year, a licensee must pay a late fee in an amount equal to two times the required renewal fee.
- (c) Late renewal fees are nonrefundable and cannot be waived.

*Adopted to be effective: September 5, 2019*

**473.5. Miscellaneous Fees (Not Refundable).**

- (a) Duplicate or Replacement Calligraphy License--\$25.
- (b) Inactive Status--\$100.
- (c) Remailing of License--\$10.
- (d) Returned Check Fee--\$25.
- (e) Analysis of Jurisprudence Examination--\$50.
- (f) Cost of Duplicate or Replacement annual renewal permit--\$10.
- (g) Limited Temporary License--\$100.
- (h) Preliminary Evaluation of Eligibility for Licensure of Person with Criminal Record--\$150.
- (i) Written Verification of License:
  - (1) Without State Seal--\$30
  - (2) With State Seal--\$50
- (j) Mailing List--\$100.

*Adopted to be effective: February 8, 1982*

*Amended: April 2, 1984; February 1, 1989; October 15, 1993; January 2, 1995; July 12, 1995; October 27, 1995; October 15, 1996; August 27, 1998; May 2, 2002; June 7, 2004; March 16, 2006; December 3, 2009; March 26, 2015; September 5, 2019*

**473.8. Open Records Fees.** In accordance with Texas Government Code §552.262, the Board adopts by reference the rules developed by the Office of the Attorney General in 1 TAC Part 3, Chapter 70 (relating to Cost of Copies of Public Information) for use by each governmental body in determining charges under Texas Government Code, Chapter 552 (Public Information) Subchapter F (Charges for Providing Copies of Public Information).

*Adopted to be effective: October 27, 1995*

*Amended: June 12, 2013*

## **OTHER LAWS**

Board rule 465.37 requires that licensees comply with all applicable state and federal statutes. The following statutes have a substantial impact on the practice of psychology. Please note, this is not an all-inclusive list of state statutes which are pertinent to the practice of psychology in Texas.

Additionally, the text of Texas health and Safety Code, Chapter 611, Mental Health Records, is provided.

## **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 or 611.0045.
- (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 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.
- (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.

**§611.0045. 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.

**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 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 Remedy Code:**

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

## **OTHER STANDARDS OF THE PROFESSION**

The following organizations develop national standards of practice. These standards are *not* adopted by the Board; however, they are valuable resources for members of the profession. Copies of the various guidelines and standards issued by these organizations may be obtained directly from the organizations.

**American Psychological Association**

**National Association of School Psychologist**