

## **BILL ANALYSIS**

H.B. 1501  
By: Nevárez  
Public Health  
Committee Report (Unamended)

### **BACKGROUND AND PURPOSE**

The Sunset Advisory Commission found that the current structure of the state's four behavioral health licensing boards, the Texas State Board of Examiners of Psychologists, the Texas State Board of Examiners of Marriage and Family Therapists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Social Worker Examiners, continues to impede these boards' ability to operate as intended and respond to an ongoing backlog of licensing applications and enforcement complaints. H.B. 1501 seeks to remedy this situation by consolidating the licensing functions of these boards under a new umbrella agency, the Texas Behavioral Health Executive Council, and making related statutory modifications.

### **CRIMINAL JUSTICE IMPACT**

It is the committee's opinion that this bill does not expressly create a criminal offense, increase the punishment for an existing criminal offense or category of offenses, or change the eligibility of a person for community supervision, parole, or mandatory supervision.

### **RULEMAKING AUTHORITY**

It is the committee's opinion that rulemaking authority is expressly granted to the Texas Behavioral Health Executive Council in SECTIONS 1.001, 2.014, 2.017, 2.019, 2.021, 2.026, 2.039, 2.042, 2.043, 2.045, 2.061, 2.067, 2.068, 2.072, 2.086, 2.090, 2.099, and 2.104 of this bill.

### **ANALYSIS**

H.B. 1501 amends the Occupations Code to provide for the consolidation of the licensing and regulation of certain mental and behavioral health occupations under an umbrella agency by establishing the Texas Behavioral Health Executive Council (BHEC) and transferring certain powers and duties from the Texas State Board of Examiners of Psychologists (TSBEP), the Texas State Board of Examiners of Marriage and Family Therapists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Social Worker Examiners to the BHEC. The bill sets out provisions relating to that transfer, including providing for the transfer of certain full-time equivalent employee positions from the transferring entity. The bill makes related statutory revisions to accomplish, among other aims, the streamlining of licensure requirements, including revising the qualifications for a psychologist license and removing the authority for the TSBEP to administer an oral examination to qualified applicants, and revises provisions relating to the provisional licensing of a psychologist. The bill provides for the continuation until expiration of any such provisional license.

H.B. 1501 repeals provisions subjecting the four transferring boards to the Texas Sunset Act, subjects the BHEC to that act, and sets the BHEC to be abolished and applicable statutes to expire September 1, 2031, unless continued in existence as provided by that act. The bill requires the BHEC and the transferring boards to adopt a transition plan that provides for the orderly transfer of powers, duties, functions, programs, and activities under the bill and sets out requirements for the plan with regard to the transfer of a program. The plan must provide for the

transfer of each regulatory program to be completed on or before August 31, 2020. The bill establishes the Texas Behavioral Health Incubation Task Force to assist in the establishment of and transfer of regulatory programs to the BHEC and sets out provisions relating to the powers, duties, and composition of the task force.

H.B. 1501 provides for the membership of the nine-member BHEC, which includes one professional member and one public member of each of the four transferring boards, appointed by those boards, as well as one public member appointed by the governor. The bill requires the appointing authorities to appoint the BHEC members not later than December 1, 2019, and provides for the manner in which those members are appointed, including the staggered expiration of terms. The bill sets out the following provisions relating to the BHEC:

- eligibility of an individual to serve as the public member appointed by the governor;
- conflicts of interest that disqualify an individual from serving on the BHEC or as a BHEC employee;
- member terms of office;
- board vacancy;
- presiding officer of the BHEC;
- grounds for member removal;
- member reimbursement;
- meetings; and
- training required for members.

The bill requires an initial member of the BHEC to complete the required training no later than August 31, 2020, and prohibits a member, on or after September 1, 2020, from voting, deliberating, or being counted as a member in attendance until the member has completed the required training.

H.B. 1501 repeals provisions relating to the designation of executive directors of, and provision of staff for, the respective boards and requires the BHEC instead to employ an executive director and other personnel as necessary to carry out the functions of the BHEC and administer the applicable bill provisions. The bill sets out related provisions and requires the BHEC to hire an executive director for BHEC not later than April 1, 2020, and to adopt procedural rules to implement the bill provisions relating to the BHEC not later than July 31, 2020.

H.B. 1501 sets out the powers and duties of the BHEC, including the requirement to administer and enforce the Psychologists' Licensing Act, the Licensed Marriage and Family Therapist Act, the Licensed Professional Counselor Act, and the Social Work Practice Act and to adopt rules necessary to perform its duties and implement the applicable bill provisions. The bill does the following:

- sets out provisions relating to that rulemaking authority and requires the respective licensing boards to propose to the BHEC certain rules and a schedule of sanctions for violations of applicable state law and adopted rules;
- requires the BHEC to set fees in amounts reasonable and necessary to cover the costs of administering those acts and applicable bill provisions and repeals provisions of those acts setting a minimum fee; and
- provides for an annual registry of all applicable license holders under BHEC jurisdiction.

H.B. 1501 sets out general licensing provisions related to the BHEC, including the following:

- conditioning the issuance of an initial or renewal occupational license, with certain exceptions, on the applicant submitting fingerprints to the BHEC or the Department of

Public Safety for obtaining criminal history record information;

- providing for the notification of an applicant about examination results;
- providing limits on and requirements for reexamination;
- providing for license renewal, including for renewal of expired licenses of certain out-of-state practitioners; and
- requiring the BHEC to establish a process to search at least one national practitioner database to determine whether another state has taken any disciplinary or other legal action against an applicant or license holder before issuing an initial or renewal license.

H.B. 1501 provides for the establishment of BHEC complaint procedures and sets out provisions relating to those procedures, including requiring the BHEC to adopt rules concerning the investigation of a complaint, providing for the confidentiality of complaint information, granting subpoena power, providing for public participation in the process, and establishing the manner in which the BHEC will solicit input and request assistance from the applicable board regarding a complaint involving standards of care or ethical practice. The bill provides for the preparation and dissemination of certain information of public interest relating to BHEC functions and those complaint procedures. The bill authorizes the BHEC to issue and establish terms of a remedial plan to resolve the investigation of a complaint filed under the Psychologists' Licensing Act and sets out related provisions.

H.B. 1501 authorizes BHEC to deny, revoke, suspend, or refuse to renew a license or to reprimand a license holder for certain violations of law or adopted rules and sets out provisions relating to those disciplinary actions and related sanctions and procedures, including providing for a temporary suspension of a license. The bill authorizes the BHEC to impose certain administrative and civil penalties and take certain enforcement actions and sets out provisions relating to that authority. The bill requires the BHEC by rule to develop a system to monitor a license holder's compliance with applicable laws and BHEC rules.

H.B. 1501 revises the training requirements for members of the TSBEP, the Texas State Board of Examiners of Marriage and Family Therapists, the Texas State Board of Examiners of Professional Counselors, and the Texas State Board of Social Worker Examiners and requires the BHEC executive director to create training manuals for the members. The bill makes the new training requirements applicable to any member of a transferring board appointed before, on, or after the bill's effective date and prohibits such members from voting, deliberating, or being counted as a member in attendance at an applicable board meeting held on or after December 1, 2019, until the member completes the additional training.

H.B. 1501 provides for the adoption of the Psychology Interjurisdictional Compact and sets out the contents of the compact, including provisions relating to the practice and temporary in-person practice of telepsychology in states that approve the compact and provisions relating to withdrawing from the compact.

H.B. 1501 amends the Code of Criminal Procedure, Government Code, Human Resources Code, and Insurance Code to make conforming changes.

H.B. 1501 repeals the following Occupations Code provisions:

- (1) Section 501.002(3);
- (2) Section 501.005;
- (3) Subchapter C, Chapter 501;
- (4) Sections 501.151(a) and (b);
- (5) Section 501.152;
- (6) Section 501.154;
- (7) Section 501.156;
- (8) Section 501.157;

- (9) Section 501.160;
- (10) Section 501.161;
- (11) Section 501.162;
- (12) Subchapter E, Chapter 501;
- (13) Sections 501.252(b), (c), and (d);
- (14) Section 501.254;
- (15) Sections 501.256(e), (f), and (g);
- (16) Section 501.2561;
- (17) Section 501.257;
- (18) Section 501.258;
- (19) Section 501.261(b);
- (20) Section 501.302;
- (21) Section 501.303;
- (22) Section 501.304;
- (23) Section 501.402;
- (24) Section 501.403;
- (25) Section 501.404;
- (26) Section 501.405;
- (27) Section 501.406;
- (28) Section 501.409;
- (29) Section 501.410;
- (30) Subchapter J, Chapter 501;
- (31) Section 501.501;
- (32) Section 501.502;
- (33) Section 501.504;
- (34) Section 502.002(3);
- (35) Section 502.003;
- (36) Subchapter C, Chapter 502;
- (37) Section 502.152;
- (38) Section 502.153;
- (39) Section 502.154;
- (40) Section 502.156;
- (41) Section 502.1565;
- (42) Section 502.157;
- (43) Section 502.158;
- (44) Section 502.161;
- (45) Section 502.162;
- (46) Section 502.163;
- (47) Subchapter E, Chapter 502;
- (48) Section 502.255;
- (49) Section 502.256;
- (50) Sections 502.301(b), (c), (d), and (e);
- (51) Section 502.302;
- (52) Section 502.303;
- (53) Section 502.352;
- (54) Section 502.353;
- (55) Section 502.354;
- (56) Section 502.355;
- (57) Section 502.356;
- (58) Subchapter I, Chapter 502;
- (59) Section 502.451;
- (60) Section 502.452;
- (61) Section 502.453;
- (62) Section 502.455;
- (63) Section 503.005;
- (64) Subchapter D, Chapter 503;

- (65) Section 503.202;
- (66) Section 503.203;
- (67) Section 503.204;
- (68) Section 503.2045;
- (69) Section 503.205;
- (70) Section 503.207;
- (71) Section 503.209;
- (72) Section 503.210;
- (73) Section 503.211;
- (74) Subchapter F, Chapter 503;
- (75) Section 503.306;
- (76) Section 503.307;
- (77) Section 503.354;
- (78) Section 503.355;
- (79) Section 503.356;
- (80) Sections 503.401(b), (c), and (d);
- (81) Section 503.402;
- (82) Section 503.403;
- (83) Section 503.404;
- (84) Section 503.405;
- (85) Section 503.406;
- (86) Section 503.451;
- (87) Section 503.454;
- (88) Subchapter K, Chapter 503;
- (89) Section 505.005;
- (90) Section 505.110;
- (91) Subchapter C, Chapter 505;
- (92) Section 505.202;
- (93) Section 505.203;
- (94) Section 505.204;
- (95) Section 505.205;
- (96) Section 505.209;
- (97) Section 505.210;
- (98) Section 505.211;
- (99) Subchapter E, Chapter 505;
- (100) Section 505.355;
- (101) Section 505.356;
- (102) Section 505.402;
- (103) Section 505.403;
- (104) Section 505.404;
- (105) Section 505.452;
- (106) Section 505.453;
- (107) Section 505.454(b);
- (108) Section 505.455;
- (109) Section 505.456;
- (110) Section 505.457;
- (111) Section 505.501;
- (112) Section 505.503;
- (113) Section 505.504;
- (114) Section 505.508; and
- (115) Subchapter K, Chapter 505.

**EFFECTIVE DATE**

September 1, 2019.

