

## **BILL ANALYSIS**

Senate Research Center  
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H.B. 2818  
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Business & Commerce  
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Engrossed

### **AUTHOR'S / SPONSOR'S STATEMENT OF INTENT**

On October 15, 2008, the Texas Medical Association (TMA) filed suit against the Texas State Board of Examiners for Marriage and Family Therapists for adopting two administrative rules relating to the practice of marriage and family therapy. Specifically, TMA contends that by including the terms "diagnosis" and "diagnostic assessment," the challenged rules expand the practice of marriage and family therapy beyond its statutory limits and unlawfully intrudes on what they consider is a physician's exclusive right to diagnose physical and mental conditions, a contention currently in dispute.

On February 24, 2017, the Supreme Court of Texas unanimously ruled in favor of marriage and family therapists' (MFTs') ability to diagnose. The court concluded that the ability of medical doctors to diagnose "does not preclude MFTs from making diagnostic assessments of emotional, mental, and behavioral problems as part of their efforts to evaluate and remediate mental dysfunctions within the marriage and family setting." This ruling required a different approach to H.B. 2818 this session.

H.B. 2818 codifies the ruling of the Supreme Court of Texas into Texas law. H.B. 2818 explicitly states what the court has already ruled—the practice of marriage and family therapy "includes the evaluation, diagnostic assessment, and remediation of mental, cognitive, affective, behavioral, or relations dysfunction, disease, or disorder in the context of marriage or family systems." H.B. 2818 also goes further to ensure MFTs are not expanding their scope of practice by stating, "the practice of marriage and family therapy does not constitute the practice of medicine and does not include prescribing medication, treating a physical disease, or providing any service outside the scope of practice."

H.B. 2818 amends current law relating to the practice of marriage and family therapy.

### **RULEMAKING AUTHORITY**

This bill does not expressly grant any additional rulemaking authority to a state officer, institution, or agency.

### **SECTION BY SECTION ANALYSIS**

SECTION 1. Amends Section 502.002(6), Occupations Code, as follows:

(6) Redefines "marriage and family therapy" to mean providing professional therapy services to individuals, families, or married couples, alone or in groups, that involve applying family systems theories and techniques. Provides that the term includes the evaluation, diagnostic assessment, and remediation of mental, cognitive, affective, behavioral, or relational dysfunction, disease, or disorder in the context of marriage or family systems and is authorized to include the use of the Diagnostic and Statistical Manual of Mental Disorders and the International Classification of Diseases. Provides that the practice of marriage and family therapy does not constitute the practice of medicine and does not include prescribing medication, treating a physical disease, or providing any service outside the scope of practice of a licensed marriage and family therapist or a licensed marriage and family therapist associate.

SECTION 2. Effective date: upon passage or September 1, 2017.