

BILL ANALYSIS

Senate Research Center
83R13122 MAW-F

H.B. 807
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Health & Human Services
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Engrossed

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Under current law, certain persons employed by a governmental agency are exempt from licensing requirements for psychologists. This means that a person employed at a governmental agency may call himself or herself a "psychologist" even if the person does not have the appropriate doctoral degree or any of the required training and expertise associated with a license to practice psychology.

These discrepancies can be confusing to patients and the general public. Accordingly, H.B. 807 removes the exemption that allows these persons to use the title "psychologist" but does not change an unlicensed person's ability to work at a governmental agency. This ensures that the agencies can continue to provide services but the public will be clear about whether or not a provider qualifies as a psychologist. This provides standards for the profession as well as reasonable expectations for the public.

Due to this change, a corresponding change must be made in Chapter 593 (Admission and Commitment to Mental Retardation Services), Health and Safety Code, to ensure that all parties, including professionals who are currently certified, can continue to make determinations of mental retardation.

H.B. 807 amends current law relating to the practice of psychology and authorizes a fee.

[**Note:** While the statutory reference in this bill is to the Texas Department of Mental Health and Mental Retardation (TXMHMR), the following amendments affect the Department of Aging and Disability Services, as the successor agency to TXMHMR.]

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 Sections 593.004 and 593.005, Health and Safety Code, as follows:

Sec. 593.004. APPLICATION FOR DETERMINATION OF MENTAL RETARDATION. (a) Defines "authorized provider" in this section.

(b) Creates this subsection from existing text. Authorizes a person believed to be a person with mental retardation, the parent if the person is a minor, or the guardian of the person to make written application to an authorized provider, rather than to the Texas Department of Mental Health and Mental Retardation (TXMHMR), a community center, a physician, or a psychologist licensed to practice in this state or certified by TXMHMR, for a determination of mental retardation using forms provided by TXMHMR.

Sec. 593.005. DETERMINATION OF MENTAL RETARDATION. (a) Defines "authorized provider" in this section.

(a-1) Requires an authorized provider, rather than a physician or psychologist licensed to practice in this state or certified by TXMHMR, to perform the determination of mental retardation. Authorizes TXMHMR to charge a reasonable fee for certifying an authorized provider, rather than for certifying a psychologist.

(b) Requires the authorized provider, rather than the physician or psychologist, to base the determination on an interview with the person and on a professional assessment that meets certain minimum criteria.

(c) Authorizes the authorized provider, rather than the physician or psychologist, to use a previous assessment, social history, or relevant record from a school district, a public or private agency, or a physician or psychologist if the authorized provider, rather than the physician or psychologist, determines that the assessment, social history, or record is valid. Makes nonsubstantive changes.

(d) Requires that the determination of mental retardation, if the person is indigent, be performed at TXMHMR's expense by an authorized provider, rather than by a physician or psychologist licensed in this state or certified by TXMHMR.

SECTION 2. Amends Section 501.004(a), Occupations Code, as follows:

(a) Provides that 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, rather than by a governmental agency or 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, rather than if the person performs duties the person is employed by the agency or institution to perform within the confines of the agency or institution;

(2)-(3) Makes no change to these subdivisions;

(4)-(5) Makes nonsubstantive changes; or

(6) the activity or service of a person who is employed by a governmental agency if the person performs duties the person is employed by the agency to perform within the confines of the agency, and does not represent that the person is a psychologist.

SECTION 3. Exempts a psychologist from this section if the psychological services provided and the psychologist's use of an official title are within the scope of the psychologist's employment as described by Section 501.004(a)(1) or (6).

SECTION 4. Effective date: upon passage or September 1, 2013.