

BILL ANALYSIS

Senate Research Center
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C.S.H.B. 442
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Business & Commerce
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Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

Statute requires a registry for licensed professional counselors, licensed chemical dependency counselors, licensed social workers, licensed dyslexia practitioners, and dyslexia therapists. These registries contain personal information of licensees, such as name, phone number, and home address. Some of the boards of these occupations publish this list online, unprotected, for any member of the public to view. These professions come with an increased risk.

H.B. 442 prevents the online publication of the home addresses of licensed professional counselors, licensed chemical dependency counselors, licensed social workers, licensed dyslexia practitioners, and dyslexia therapists. A licensee may opt in to include their address; currently they must opt out. What is more, H.B. 442 does not prevent the publication of a registry. The only change is that the home address is not included. (Original Author's / Sponsor's Statement of Intent)

C.S.H.B. 442 amends current law relating to the licensing and regulation of certain professions, including the online publication of home addresses of certain occupational license holders.

RULEMAKING AUTHORITY

Rulemaking authority is expressly granted to the Texas State Board of Examiners of Psychologists in SECTION 6 (Section 501.301, Occupations Code) and SECTION 7 (Section 501.411, Occupations Code) of this bill.

Rulemaking authority is expressly granted to the Texas State Board of Examiners of Marriage and Family Therapists in SECTION 9 (Section 502.252, Occupations Code) of this bill.

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Subchapter B, Chapter 403, Occupations Code, by adding Section 403.053, as follows:

Sec. 403.053. PUBLISHING LICENSE HOLDER HOME ADDRESS PROHIBITED.

(a) Prohibits the Texas Department of Licensing and Regulation (TDLR) from including the home address of a person licensed under this chapter (Licensed Dyslexia Practitioners and Licensed Dyslexia Therapists) in a roster, registry, or other database TDLR publishes on TDLR's Internet website unless the person requests that the person's home address appear in the roster, registry, or other database on the website. Requires that a request under this subsection be made in the manner prescribed by TDLR.

(b) Provides that the home address of a licensed person that is included in a roster, registry, or other database TDLR maintains is public information and is not excepted from required disclosure under Chapter 552 (Public Information), Government Code.

SECTION 2. Amends Section 501.059, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires that the training program provide the person with information regarding:

- (1) the law governing Texas State Board of Examiners of Psychologists (TSBEP) operations;
- (2) the programs, functions, rules, and budget of TSBEP, rather than this chapter (Psychologists) and the programs, functions, rules, and budget of TSBEP. Creates this subdivision from existing text;
- (3) the scope of and limitations on the rulemaking authority of TSBEP;
- (4) the types of TSBEP rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business TSBEP regulates, including certain rules, interpretations, and enforcement actions.
- (5) redesignates existing Subdivision (2) as Subdivision (5) and makes no further changes to this subdivision;
- (6) redesignates existing Subdivision (3) as Subdivision (6). The requirements of:
 - (A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest, rather than and conflicts of interest. Creates this paragraph from existing text; and
 - (B) other laws applicable to members of TSBEP in performing their duties; and
- (7) redesignates existing Subdivision (4) as Subdivision (7) and makes no further changes to this subdivision.

(d) Requires the executive director to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each TSBEP member. Requires each TSBEP member, on receipt of the training manual, to sign and submit to the executive director a statement acknowledging receipt of the training manual.

SECTION 3. Amends Sections 501.158(c) and (e), Occupations Code, as follows:

- (c) Requires TSBEP to issue an order requiring a person, rather than an applicant or person seeking renewal or a provisional license, who refuses to submit to an examination under this section (Competency Requirements) to show cause for the person's refusal at a hearing on the order scheduled for not later than a certain date.
- (e) Authorizes TSBEP, unless the request is withdrawn, to take disciplinary action against a person who refuses to submit to the physical or mental examination, rather than prohibits a person who refuses to submit to the physical or mental examination, unless the request is withdrawn, from taking the provisional license examination or renewing the person's license, as appropriate.

SECTION 4. Amends Sections 501.205(a) and (b), Occupations Code, as follows:

- (a) Provides that, except as provided by Subsection (b), a complaint and investigation, rather than a complaint and investigation concerning a license holder, and all information and materials compiled by TSBEP in connection with the complaint and investigation are not subject to certain disclosures.
- (b) Authorizes a complaint or investigation, rather than a complaint or investigation subject to Subsection (a), and all information and materials compiled by TSBEP in connection with the complaint to be disclosed to certain entities.

SECTION 5. Amends the heading to Section 501.301, Occupations Code, to read as follows:

Sec. 501.301. LICENSE EXPIRATION AND RENEWAL.

SECTION 6. Amends Section 501.301(a), Occupations Code, as follows:

(a) Requires TSBEP to adopt rules providing for the expiration and renewal of a license issued under this chapter. Requires that the rules require a license to be renewed annually or biennially. Deletes existing text providing that a license issued under this chapter expires on December 31 of the year following the date the license is issued or renewed. Deletes existing text providing that a license of a psychological associate expires on May 31 of the year following the date the license is issued or renewed.

SECTION 7. Amends Subchapter I, Chapter 501, Occupations Code, by adding Section 501.411, as follows:

Sec. 501.411. REMEDIAL PLAN. (a) Authorizes TSBEP to issue and establish the terms of a remedial plan to resolve the investigation of a complaint filed under this chapter.

(b) Requires TSBEP by rule to establish the types of complaints or violations that are authorized to be resolved with a remedial plan. Requires that the rules provide that a remedial plan is prohibited from being imposed to resolve certain complaints.

(c) Prohibits a remedial plan from containing a provision that revokes, suspends, limits, or restricts a person's license or assesses an administrative penalty against a person.

(d) Prohibits TSBEP from issuing a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with TSBEP for the resolution of a different complaint filed under this chapter.

(e) Authorizes TSBEP to assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan.

SECTION 8. Amends Section 502.059, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires that the training program provide the person with information regarding:

(1) the law governing the Texas State Board of Examiners of Marriage and Family Therapists (BMFT) operations, rather than this chapter (Marriage and Family Therapists);

(2) the programs, functions, rules, and budget of BMFT, rather than the programs offered by BMFT, BMFT's role and functions, the rules of BMFT, with an emphasis on the rules that related to disciplinary and investigatory authority, and the current budget for BMFT. Creates this subdivision from existing text;

(3) the scope of and limitations on the rulemaking authority of BMFT;

(4) the types of BMFT rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business BMFT regulates, including certain rules, interpretations, and enforcement actions.

(5) redesignates existing Subdivision (6) as Subdivision (5) and makes no further changes to this subdivision;

(6) redesignates existing Subdivision (7) as Subdivision (6). The requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts, rather than conflict, of interest. Creates this paragraph from existing text; and

(B) other laws applicable to members of BMFT in performing their duties; and

(7) redesignates existing Subdivision (8) as Subdivision (7) and makes no further changes to this subdivision.

(d) Requires the executive director to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each BMFT member. Requires each BMFT member, on receipt of the training manual, to sign and submit to the executive director a statement acknowledging receipt of the training manual.

SECTION 9. Amends Section 502.252(c), Occupations Code, as follows:

(c) Provides that an applicant is eligible to apply for a license as a licensed marriage and family therapist if the person:

(1) makes no changes to this subdivision;

(2) after receipt of a degree described by Subsection (b)(4) (relating to requiring a person to hold a master's or doctoral degree in marriage and family therapy or in a related mental health field), has completed two years of work experience in marriage and family therapist services that includes at least 3,000 hours of clinical practice consisting of, rather than of clinical practice of which, at least 1,500 hours of direct clinical services, including a minimum number of hours providing direct clinical services to couples or families as required by BMFT rule, rather than at (A) least 1,500 hours consist of direct clinical services, and (B) at least 750 hours consist of direct clinical services to couples or families; and

(3) makes no changes to this subdivision.

SECTION 10. Amends Section 503.110, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires that the training program provide the person with information regarding:

(1) the law governing Texas State Board of Examiners of Professional Counselors (TSBEPC) operations;

(2) the programs, functions, rules, and budget of TSBEPC, rather than this chapter (Licensed Professional Counselors) and TSBEPC's programs, functions, rules, and budget;

(3) the scope of and limitations on the rulemaking authority of TSBEPC;

(4) the types of TSBEPC rules, interpretations, and enforcement actions that may implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business TSBEPC regulates, including certain rules, interpretations, and enforcement actions.

(5) redesignates existing Subdivision (2) as Subdivision (5) and makes no further changes to this subdivision;

(6) redesignates existing Subdivision (3) as Subdivision (6). The requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts-of-interest, rather than conflicts-of-interest. Creates this paragraph from existing text; and

(B) other laws applicable to members of TSBEPc in performing their duties; and

(7) redesignates existing Subdivision (4) as Subdivision (7) and makes no further changes to this subdivision.

(d) Requires the executive director to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each TSBEPc member. Requires each TSBEPc member, on receipt of the training manual, to sign and submit to the executive director a statement acknowledging receipt of the training manual.

SECTION 11. Amends Section 503.207, Occupations Code, by adding Subsections (c) and (d), as follows:

(c) Prohibits TSBEPc from including the home address of a person licensed under this chapter in a registry TSBEPc publishes on TSBEPc's Internet website unless the person requests that the person's home address appear in the registry on the website. Requires that a request under this subsection be made in the manner prescribed by TSBEPc.

(d) Provides that the home address of a person licensed under this chapter that is included in the registry TSBEPc prepares under this section (License Holder Registry) is public information and is not excepted from required disclosure under Chapter 552, Government Code.

SECTION 12. Amends Section 504.055, Occupations Code, by adding Subsections (e) and (f), as follows:

(e) Prohibits the Department of State Health Services (DSHS) from including the home address of a person licensed by DSHS in a roster DSHS publishes on DSHS's Internet website unless the person requests that the person's home address appear in the roster on the website. Requires that a request under this subsection be made in the manner prescribed by DSHS.

(f) Provides that the home address of a person licensed under this chapter (Chemical Dependency Counselors) that is included in a roster DSHS prepares under this section (Official Roster) is public information and is not excepted from required disclosure under Chapter 552, Government Code.

SECTION 13. Amends Section 505.109, Occupations Code, by amending Subsection (b) and adding Subsection (d), as follows:

(b) Requires that the training program provide the person with information regarding:

(1) the law governing the Texas State Board of Social Worker Examiners (TSBSWE) operations, rather than the legislation that created TSBSWE;

(2) creates this subdivision from existing text and makes nonsubstantive changes;

(3) the scope and limitations on the rulemaking authority of TSBSWE;

(4) the types of TSBSWE rules, interpretations, and enforcement actions that may to implicate federal antitrust law by limiting competition or impacting prices charged by persons engaged in a profession or business TSBSWE regulates, including certain rules, interpretations, and enforcement actions.

(5) redesignates existing Subdivision (2) as Subdivision (5) and makes no further changes to this subdivision;

(6) redesignates existing Subdivision (3) as Subdivision (6). The requirements of:

(A) laws relating to open meetings, public information, administrative procedure, and disclosing conflicts of interest, rather than administrative procedure, and conflicts of interest. Creates this paragraph from existing text; and

(B) other laws applicable to members of TSBSWE in performing their duties; and

(7) redesignates existing Subdivision (4) as Subdivision (7) and makes no further changes to this subdivision.

(d) Requires the executive director to create a training manual that includes the information required by Subsection (b). Requires the executive director to distribute a copy of the training manual annually to each TSBSWE member. Requires each TSBSWE member, on receipt of the training manual, to sign and submit to the executive director a statement acknowledging receipt of the training manual.

SECTION 14. Amends Section 505.205, Occupations Code, by adding Subsections (d) and (e), as follows:

(d) Prohibits TSBSWE from including the home address of a person licensed under this chapter (Social Workers) in a roster TSBSWE publishes on TSBSWE's Internet website unless the person requests that the person's home address appear in the roster on the website. Requires that a request under this subsection be made in the manner prescribed by TSBSWE.

(e) Provides that the home address of a licensed person that is included in the roster TSBSWE prepares is public information and is not excepted from required disclosure under Chapter 552, Government Code.

SECTION 15. Repealer: Section 501.152(b) (relating to prohibiting TSBEP from setting a certain fee), Occupations Code.

Repealer: Section 502.153(b) (relating to prohibiting BMFT from setting a certain fee), Occupations Code.

Repealer: Section 503.202(b) (relating to prohibiting TSBEP from setting a certain fee), Occupations Code.

Repealer: Section 505.203(b) (relating to prohibiting TSBSWE from setting a certain fee), Occupations Code.

SECTION 16. (a) Provides that, except as provided by Subsection (b) of this section, Sections 501.059, 502.059, 503.110, and 505.109, Occupations Code, as amended by this Act, apply to a member of the applicable board appointed before, on, or after the effective date of this Act.

(b) Provides that a member of a board who, before the effective date of this Act, completed the training program required by Section 501.059, 502.059, 503.110, or 505.109, Occupations Code, as the applicable law existed before the effective date of this Act, is required to complete additional training only on the subjects added by this Act to the training programs required by Section 501.059, 502.059, 503.110, and 505.109, Occupations Code, as applicable. Prohibits a board member described by this subsection from voting, deliberating, or being counted as a member in attendance at a meeting of the

board held on or after December 1, 2017, until the member completes the additional training.

SECTION 17. Makes application of Section 502.252, Occupations Code, as amended by this Act, prospective.

SECTION 18. Effective date: September 1, 2017.