



TEXAS OCCUPATIONS CODE, CHAPTER 505 SOCIAL WORK PRACTICE ACT

Effective September 1, 2005

Texas State Board of Social Worker Examiners
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SUBCHAPTER A. GENERAL PROVISIONS

Sec. 505.001. SHORT TITLE. This chapter may be cited as the Social Work Practice Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 1, eff. Sept. 1, 2003.

Sec. 505.002. DEFINITIONS. In this chapter:

(1) Repealed by Acts 2003, 78th Leg., ch. 892, Sec. 37.

(2) "Board" means the Texas State Board of Social Worker Examiners.

(2-a) "Commissioner" means the commissioner of state health services.

(3) "Council on Social Work Education" means the national organization that is primarily responsible for the accreditation of schools of social work in the United States or its successor approved by the board.

(4) "Department" means the Department of State Health Services.

(4-a) "Licensed baccalaureate social worker" means a person who holds a baccalaureate social worker license issued by the board under this chapter.

(4-b) "Licensed clinical social worker" means a person who holds a clinical social worker license issued by the board under this chapter.

(5) "Licensed master social worker" means a person who holds a master social worker license issued by the board under this chapter.

(6) "Licensed social worker" means a person who holds a social worker license issued by the board under this chapter.

(7) Repealed by Acts 2003, 78th Leg., ch. 892, Sec. 37.

(8) Repealed by Acts 2003, 78th Leg., ch. 892, Sec. 37.

(9) "Social worker" means a person who holds any license issued by the board under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 2, 37, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 707, Sec. 1, eff. Sept. 1, 2005.

Sec. 505.0025. PRACTICE OF SOCIAL WORK.

(a) The practice of social work is the application of social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or biopsychosocial functioning of individuals, couples, families, groups, organizations, or communities.

(b) The practice of social work may include the provision of individual, conjoint, family, and group psychotherapy using the Diagnostic and Statistical Manual of

Mental Disorders, the International Classification of Diseases, and other diagnostic classification systems in assessment, diagnosis, treatment, and other activities by a person licensed under this chapter.

Added by Acts 2003, 78th Leg., ch. 892, Sec. 3, eff. Sept. 1, 2003.

Sec. 505.003. APPLICATIONS AND EXEMPTIONS. (a) This chapter does not apply to:

(1) an activity conducted or a service performed by a person who is licensed, certified, or registered in a profession other than social work, including a physician, attorney, registered nurse, licensed vocational nurse, psychologist, occupational therapist, licensed marriage and family therapist, licensed chemical dependency counselor, or licensed professional counselor, if:

(A) the activity or service is conducted or performed within the scope of the person's license, certificate, or registration;

(B) the person does not use a title listed in Section 505.351; and

(C) the person does not:

(i) represent the service as social work;

(ii) represent that the person is a social worker; or

(iii) use a title that implies that the person is licensed in social work;

(2) a service performed by a person as a volunteer or staff member if the person does not:

(A) represent the service as social work;

(B) represent the person as a social worker; or

(C) use a title that implies that the person is licensed in social work;

(3) an activity conducted by a social work student, intern, or trainee in connection with an institution of higher education accredited by the Council on Social Work Education; or

(4) an activity conducted or a service performed by a pastoral care counselor who is acting within the person's ministerial capabilities and who does not use a title that implies that the counselor is licensed in social work, including:

(A) a Christian Science practitioner who is recognized by the Church of Christ Scientist as registered and published in the Christian Science Journal; and

(B) any other recognized religious practitioner.

(b) This chapter does not require a public agency or private employer, including a nonprofit corporation, to employ a person licensed under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 4, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 707, Sec. 2, eff. Sept. 1, 2005.

Sec. 505.004. NONDISCRIMINATORY ACTIONS AND DECISIONS. An action taken or a decision made under this chapter, including an action or a decision relating to a license application, examination, regulation, or disciplinary proceeding, shall be taken or made without regard to sex, race, religion, national origin, color, or political affiliation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.005. APPLICATION OF SUNSET ACT. The Texas State Board of Social Worker Examiners is subject to Chapter 325, Government Code (Texas Sunset Act). Unless continued in existence as provided by that chapter, the board is abolished and Section 505.101 expires September 1, 2017.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 3, eff. Sept. 1, 2005.

SUBCHAPTER B. TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

Sec. 505.101. BOARD; MEMBERSHIP. (a) The Texas State Board of Social Worker Examiners consists of nine members appointed by the governor with the advice and consent of the senate as follows:

(1) two members who are licensed master social workers;

(2) two members who are licensed baccalaureate social workers;

(3) two members who are licensed clinical social workers; and

(4) three members who represent the public.

(b) Appointments to the board shall be made without regard to the race, color, disability, sex, religion, age, or national origin of the appointee.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 5, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 707, Sec. 4, eff. Sept. 1, 2005.

Sec. 505.102. PUBLIC MEMBERSHIP ELIGIBILITY. (a) A public member of the board may not:

(1) be licensed under this chapter; or

(2) have an interest in the practice of social work other than as a consumer.

(b) 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 care;

(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 or receiving funds from the board or department;

(B) owns or controls, directly or indirectly, more than a 10 percent interest in a business entity or other organization regulated by or receiving funds from the board or department; or

(C) uses or receives a substantial amount of tangible goods, services, or funds from the board or department, other than compensation or reimbursement authorized by law for board membership, attendance, or expenses.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 5, eff. Sept. 1, 2005.

Sec. 505.103. 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 an employee of the department 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 care; 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 general counsel to the board or the department 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.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 6, eff. Sept. 1, 2005.

Sec. 505.104. TERMS: VACANCY. (a) Members of the board serve staggered six-year terms. The terms of one-third of the members expire February 1 of each odd-numbered year.

(b) A person who is appointed to fill a vacancy on the board shall serve as a board member for the remainder of the unexpired term.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.105. 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 505.101 and 505.102(a);

(2) does not maintain during service on the board the qualifications required by Sections 505.101 and 505.102(a);

(3) is ineligible for membership under Section 505.103;

(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 attorney general that a potential ground for removal exists.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 7, eff. Sept. 1, 2005.

Sec. 505.106. EXPENSE REIMBURSEMENT. Each board member is entitled to reimbursement for expenses incurred in traveling to and from the business of the board at the rates provided in the General Appropriations

Act for state employees. A member may not receive actual or necessary expenses except for travel to and from meetings.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.107. OFFICERS. (a) The governor shall designate one board member as presiding officer. The presiding officer serves in that capacity at the will of the governor.

(b) The board shall elect other officers at the first regular meeting of the board each year.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.108. MEETINGS. (a) The board shall hold a meeting at least once a year.

(b) The board may hold other regular meetings as provided by board rule and special meetings as determined by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.109. TRAINING. (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) the legislation that created the board and the board's programs, functions, rules, and budget;

(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.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 8, eff. Sept. 1, 2005.

Sec. 505.110. BOARD COMMITTEES. (a) The board may appoint committees to assist the board with its functions under this chapter.

(b) Only a member of the board may serve as a member of a board committee.

Added by Acts 2005, 79th Leg., ch. 707, Sec. 9, eff. Sept. 1, 2005.

SUBCHAPTER C. EXECUTIVE DIRECTOR AND PERSONNEL

Sec. 505.151. EXECUTIVE DIRECTOR. (a) The commissioner shall designate an employee of the department to serve as executive director of the board. The executive director serves at the will of the board.

(b) The executive director is the administrator of the licensing and regulatory activities of the board.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 10, eff. Sept. 1, 2005.

Sec. 505.152. EXECUTIVE DIRECTOR POWERS AND DUTIES. In addition to other duties provided by this chapter or by the department, the executive director shall:

- (1) keep full and accurate minutes of board transactions and proceedings;
 - (2) serve as custodian of board files and records;
 - (3) prepare and recommend to the board plans and procedures necessary to implement the purposes of this chapter, including rules and proposals on administrative procedures consistent with this chapter;
 - (4) exercise general supervision of department employees involved in the administration of this chapter;
 - (5) investigate complaints and present formal complaints;
 - (6) attend each board meeting as a nonvoting participant;
 - (7) manage board correspondence; and
 - (8) obtain, assemble, or prepare reports and other information as directed or authorized by the board.
- Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.*

Sec. 505.153. PERSONNEL AND FACILITIES. (a) The board is administratively attached to the department. Department personnel shall administer this chapter as agents of the board. The department shall provide the necessary staff to assist the board in performing its duties.

(b) If necessary to administer this chapter, the department by agreement may:

- (1) obtain and provide for the compensation for services; and
- (2) employ professional consultants, technical assistants, and employees on a full-time or part-time basis.

(c) Department facilities shall be used as necessary to administer this chapter.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.154. QUALIFICATIONS AND STANDARDS OF CONDUCT INFORMATION. The board shall provide, as often as necessary, to its members and employees information regarding their:

- (1) qualifications for office or employment under this chapter; and
- (2) responsibilities under applicable laws relating to standards of conduct for state officers or employees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.155. DIVISION OF RESPONSIBILITIES. The board shall develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the executive director and staff of the department.

Added by Acts 2005, 79th Leg., ch. 707, Sec. 11, eff. Sept. 1, 2005.

SUBCHAPTER D. POWERS AND DUTIES

Sec. 505.201. GENERAL RULEMAKING AND ENFORCEMENT AUTHORITY. (a) The board may:

- (1) adopt and enforce rules necessary to perform the board's duties under this chapter;
- (2) establish standards of conduct and ethics for license holders; and
- (3) ensure strict compliance with and enforcement of this chapter.

(b) In adopting rules under this section, the board shall consider the rules and procedures of the Texas Board of Health and the department. The board shall adopt procedural rules, which may not be inconsistent with similar rules and procedures of the Texas Board of Health or the department.

(c) The board by rule may define a term not defined under Section 505.002 if a definition is necessary to administer or enforce this chapter.

(d) Expired.

(e) For each type of license issued under this chapter, the board shall establish:

- (1) the minimum eligibility requirements;
- (2) educational requirements;
- (3) professional experience criteria;
- (4) supervision requirements; and
- (5) independent practice criteria.

(f) The board shall establish procedures for recognition of independent practice.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 431, Sec. 1, eff. May 28, 2001; Acts 2003, 78th Leg., ch. 892, Sec. 6, eff. Sept. 1,

2003.

Sec. 505.202. 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 that 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 use of any advertising medium;

(2) restricts the person's personal appearance or the 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.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.203. 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, in an amount that is less than the amount of that fee on that date.

(c) Unless the board determines that the fees would not cover the costs associated with administering the renewal of licenses and orders of recognition of specialty under this chapter, the board shall set:

(1) the renewal fee for a license or order of recognition of specialty expired for 90 days or less in an amount that is 1-1/4 times the amount of the renewal fee for an unexpired license or order; and

(2) the renewal fee for a license or order of recognition of specialty expired for more than 90 days but less than one year in an amount that is 1-1/2 times the amount of the renewal fee for an unexpired license or order.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2005, 79th Leg., ch. 707, Sec. 12, eff. Sept. 1, 2005.

Sec. 505.204. BOARD DUTIES REGARDING COMPLAINTS.

(a) The board by rule shall:

(1) adopt a form to standardize information concerning complaints made to the board; and

(2) prescribe information to be provided to a person when the 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.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.205. ROSTER OF LICENSE HOLDERS.

(a) The board shall prepare and publish at its discretion a roster that contains the name and address of each person licensed under this chapter.

(b) The board shall mail a copy of the roster to each license holder.

(c) The board may not include in the roster the name and address of a person who is delinquent in the payment of a fee required under this chapter on the date the roster is sent for printing.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.267(a),

eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 892, Sec. 7, eff.

Sept. 1, 2003.

Sec. 505.206. ROSTER OF INDEPENDENT SOCIAL WORKERS.

The board shall publish a roster of persons recognized under Section 505.307 as qualified for the independent practice of social work.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2003, 78th Leg., ch. 892, Sec. 8, eff. Sept.

1, 2003.

Sec. 505.207. ANNUAL REPORT REGARDING LICENSING.

Not later than November 1 of each year, the commissioner shall file with the governor and the presiding officer of each house of the legislature a written report regarding the licensing of social workers by the department during the preceding fiscal year.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2005, 79th Leg., ch. 707, Sec. 13, eff.

Sept. 1, 2005.

Sec. 505.208. ANNUAL REPORT REGARDING FUNDS.

(a) The department shall file annually with the governor and the presiding officer of each house of the legislature a complete and detailed written report accounting for all funds received and disbursed by the board during the preceding fiscal year.

(b) The report must be in the form and reported in the time provided by the General Appropriations Act.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.209. RULES ON CONSEQUENCES OF CRIMINAL CONVICTION.

(a) The board shall adopt rules necessary to comply with Chapter 53.

(b) In its rules under this section, the board shall list the specific offenses for which a conviction would constitute grounds for the board to take action under Section 53.021.

Added by Acts 2005, 79th Leg., ch. 707, Sec. 14, eff. Sept.

1, 2005.

Sec. 505.210. USE OF TECHNOLOGY. The board shall implement a policy requiring the board to use 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. *Added by Acts 2005, 79th Leg., ch. 707, Sec. 14, eff. Sept. 1, 2005.*

Sec. 505.211. NEGOTIATED RULEMAKING AND ALTERNATIVE DISPUTE RESOLUTION POLICY. (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 department 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.

Added by Acts 2005, 79th Leg., ch. 707, Sec. 14, eff. Sept. 1, 2005.

SUBCHAPTER E. PUBLIC ACCESS INFORMATION AND COMPLAINT PROCEDURES

Sec. 505.251. CONSUMER INTEREST INFORMATION. (a) The board shall prepare information of consumer interest describing the regulatory functions of the board and the procedures by which consumer complaints are filed with and resolved by the board.

(b) The board shall make the information available to the public and appropriate state agencies.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.252. 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.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.253. RECORDS OF COMPLAINTS. (a) The board shall maintain a system to promptly and efficiently act on complaints filed with the board. The board shall maintain:

(1) information about the parties to the complaint and the subject matter of the complaint;

(2) a summary of the results of the review or investigation of the complaint; and

(3) information about 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 parties of the status of the complaint until final disposition of the complaint.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 15, eff. Sept. 1, 2005.

Sec. 505.254. GENERAL RULES REGARDING COMPLAINT INVESTIGATION AND DISPOSITION. (a)

The board shall adopt rules concerning the investigation of a complaint filed with the department and referred to the board.

The rules adopted under this subsection must:

(1) distinguish among 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;

(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; and

(6) prescribe the time after an act or omission during which a person may file a complaint with the board regarding the act or omission in order for the board to consider the complaint.

(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 board receives the complaint.

(c) Each party to the complaint shall be notified of the projected time requirements for the complaint. Each party to the complaint shall be 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 the complaint so that the board may take necessary action on the complaint.

(e) The board may conduct an investigation of a complaint and determine the validity of the complaint regardless of the status of the license or order of recognition of specialty of the person against whom the complaint is made.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 9, eff. Sept. 1, 2003.

Sec. 505.2545. SUBPOENAS. (a) In an investigation of a complaint filed with the department and referred to the board, the board may request that the commissioner or the commissioner's designee approve the issuance of a subpoena. If the request is approved, 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 may delegate the authority granted under Subsection (a) to the executive director or the secretary-treasurer of the board.

(f) The board shall pay a reasonable fee for photocopies subpoenaed under this section in an amount not to exceed the amount the board may charge for copies of its records.

(g) The reimbursement of the expenses of a witness whose attendance is compelled under this section is governed by Section 2001.103, Government Code.

(h) All information and materials subpoenaed or compiled by the board in connection with a complaint and investigation are confidential and not subject to disclosure under Chapter 552, Government Code, and not subject to disclosure, discovery, subpoena, or other means of legal compulsion for their release to anyone other than the board or its employees or agents involved in discipline of the holder of a license or order of recognition, except that this information may be disclosed to:

(1) persons involved with the board in a disciplinary action against the holder of a license or order of recognition;

(2) social work licensing or disciplinary boards in other jurisdictions;

(3) peer assistance programs approved by the board under Chapter 467, Health and Safety Code;

(4) law enforcement agencies; and

(5) persons engaged in bona fide research, if all individual-identifying information has been deleted.

(i) The filing of formal charges against a holder of a license or order of recognition, the nature of those charges, disciplinary proceedings of the board, and final disciplinary actions, including warnings and reprimands, by the board are not confidential and are subject to disclosure in accordance with Chapter 552, Government Code.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.268(a), eff. Sept. 1, 2001. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 10, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 707, Sec. 16, eff. Sept. 1, 2005.

Sec. 505.2547. COMPLAINT COMMITTEE. The board shall appoint at least one public member of the board to any board committee established to review a complaint filed with the board or review an enforcement action against a license holder related to a complaint filed with the board.
Added by Acts 2005, 79th Leg., ch. 707, Sec. 17, eff. Sept. 1, 2005.

Sec. 505.255. 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.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

SUBCHAPTER F. SPECIALTY AREAS OF SOCIAL WORK

Sec. 505.301. ESTABLISHMENT OF SPECIALTY AREA. (a) The board may establish within the scope of social work practice and this chapter specialty areas of social work for license holders under this chapter who are licensed in good standing if establishment of the specialty areas:

(1) is necessary to promote the public interest; and

(2) assists the public in identifying qualified persons in a social work practice specialty.

(b) The board may not authorize a specialty area within the practice of social work unless the board sets the minimum qualifications for social work practice with appropriate supervision and examination, as determined by the board.

(c) The board may not establish a specialty area of social work or a specialty area identification that conflicts with a state licensing law.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 11, eff. Sept. 1, 2003.

Sec. 505.302. REGULATION OF SPECIALTY AREAS. (a) In establishing a specialty area of social work, the board shall:

(1) define the scope of the specialty;

(2) establish qualifications for specialty area practitioners that describe, in accordance with Subdivision (1), the scope of the specialty area;

(3) adopt rules of conduct to ensure strict compliance with and enforcement of this chapter; and

(4) adopt rules for the suspension or revocation of an order of recognition of specialty.

(b) A person who is not recognized as satisfying the qualifications for a specialty area may not practice in the specialty area.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.303. CLINICAL SOCIAL WORK SPECIALTY. (a) The board shall establish a specialty area

for the practice of clinical social work that is available only to a licensed master social worker who satisfies the minimum number of years of active social work practice with appropriate supervision and clinical examination, as determined by the board.

(b) A person may not use the title "Licensed Clinical Social Worker" or the initials "LCSW" unless the person is recognized as qualified for the independent practice of clinical social work.

(c) For purposes of Subchapter C, Chapter 1451, Insurance Code:

(1) a person recognized as qualified for the independent practice of clinical social work may use the title "Licensed Clinical Social Worker" or another title approved by the board; and

(2) a board-approved title under this subsection has the same meaning and effect as the title "Licensed Clinical Social Worker."

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 12, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 728, Sec. 11.148, eff. Sept. 1, 2005.

Sec. 505.304. ORDER OF RECOGNITION OF SPECIALTY. (a) The board shall prescribe the name, design, and content of an order of recognition of specialty.

(b) An order of recognition of specialty must:

(1) state the full name of the person recognized in the order;

(2) state the official specialty serial number;

(3) include the presiding officer's signature; and

(4) include the board's official seal.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.305. RECOGNITION OF SPECIALTY; ISSUANCE OF ORDER. (a) The board shall recognize a social worker as qualified for the practice of a specialty area of social work if the social worker satisfies the recognition requirements established by the board and the board determines that the person is worthy of the public trust in performing services within the scope of the specialty area.

(b) The board shall issue an order of recognition of specialty to a social worker who is recognized as qualified for the practice of a specialty area of social work. The order of recognition of specialty evidences the state's recognition of the social worker as a specialty social work practitioner under the identification or title designated by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 13, eff. Sept. 1, 2003.

Sec. 505.306. PROHIBITED USE OF SPECIALTY AREA IDENTIFICATION OR TITLE. If the board establishes a specialty area of social work, a social worker may not use the specialty area identification or title designated by the board unless the person is recognized as qualified for the practice of the specialty area under this chapter.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 13, eff. Sept. 1, 2003.

Sec. 505.307. INDEPENDENT PRACTICE RECOGNITION; MINIMUM QUALIFICATIONS. (a) The board shall establish procedures for recognizing a social worker qualified for the independent practice of social work.
(b) A social worker may not be recognized as qualified for the independent practice of social work unless the person satisfies the requirements of social work education, experience, and supervision as determined by the board.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 13, eff. Sept. 1, 2003.

SUBCHAPTER G. LICENSE REQUIREMENTS

Sec. 505.351. LICENSE REQUIRED. (a) A person may not use or cause to be used the title "social worker," "licensed baccalaureate social worker," "licensed master social worker," "licensed clinical social worker," or "licensed social worker," or any combination, variation, or abbreviation of those titles, as a professional or business identification, representation, asset, or means of obtaining a benefit unless the person holds an appropriate license issued under this chapter.
(b) A person may not use a title that implies that the person holds a license in social work unless the person holds an appropriate license issued under this chapter.
(c) A person who engages in or attempts to engage in conduct described by this section is considered to be engaged in the practice of social work.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 13, eff. Sept. 1, 2003.

Sec. 505.352. LICENSE APPLICATION. A person may apply for a license under this chapter by submitting an application to the board. The application must:
(1) be on a form prescribed by the board;
and
(2) contain statements made under oath

regarding the applicant's education and experience and any other information required by the board that qualifies the applicant for a license.
Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.353. ELIGIBILITY. (a) To be eligible for a license under this chapter, an applicant must:
(1) be at least 18 years of age;
(2) be worthy of the public trust and confidence;
(3) satisfy the education and experience requirements under this section; and
(4) pass the licensing examination conducted by the board under Section 505.354 and the jurisprudence examination conducted by the board under Section 505.3545.

(b) An applicant may take the licensing examination conducted by the board under Section 505.354 for:
(1) a master social worker license if the applicant possesses a doctoral or master's degree in social work from a graduate program accredited by the Council on Social Work Education;

(2) a baccalaureate social worker license if the applicant possesses a baccalaureate degree in social work from an educational program accredited by the Council on Social Work Education; or

(3) a clinical social worker license if the applicant possesses a doctoral or master's degree in social work from an accredited graduate program approved by the board and meets the qualifications for clinical social work practice as determined by the board under this chapter

(c) The board may require an applicant to submit documentary evidence of the quality, scope, and nature of the applicant's experience and competence to:

(1) determine the credibility and acceptability of the applicant's professional or technical experience or competence; and

(2) ensure the public safety, health, and welfare.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.269(a), eff. Sept. 1, 2001; Acts 2003, 78th Leg., ch. 892, Sec. 14, eff. Sept. 1, 2003; Acts 2005, 79th Leg., ch. 707, Sec. 18, eff. Sept. 1, 2005.

Sec. 505.354. EXAMINATION. (a) The board, at least once each calendar year, shall prepare and administer an examination to assess an applicant's qualifications for a license under this chapter.

(b) Each license examination shall be conducted in a manner that is determined by the board and is fair and

impartial to each applicant and school or system of social work.

(c) Applicants may be known to the examiners only by numbers until after the general averages of the applicants' numbers in the class are determined and licenses are issued or denied.

(d) To maintain the highest standards in the social work profession, the scope and content of each examination must be sufficient to ensure professional efficacy and competence.

(e) The board shall have the written portion of the examination, if any, validated by an independent testing entity.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.3545. JURISPRUDENCE EXAMINATION.

(a) The board shall develop and administer at least twice each calendar year a jurisprudence examination to determine an applicant's knowledge of this chapter, board rules, and any other applicable laws of this state affecting the applicant's social work practice.

(b) The board shall adopt rules to implement this section, including rules related to the development and administration of the examination, examination fees, guidelines for reexamination, grading the examination, and providing notice of examination results.

Added by Acts 2005, 79th Leg., ch. 707, Sec. 19, eff. Sept. 1, 2005.

Sec. 505.355. EXAMINATION RESULTS. (a) The board shall notify each examinee of the examination results not later than the 30th day after the date the licensing examination is administered. If an examination is graded or reviewed by a national testing service, the board shall notify each examinee 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 results of an examination graded or reviewed by a national testing service will be delayed for longer than 90 days after the examination date, the board shall notify the examinee of the reason for the delay before the 90th day.

(c) If requested by a person who fails an examination, the board shall provide to the person an analysis of the person's performance on the examination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.356. REEXAMINATION. The board by rule shall establish:

(1) a limit on the number of times an applicant who fails an examination may retake the examination;

(2) the requirements for retaking an

examination; and

(3) alternative methods of examining applicants' competency.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.357. TEMPORARY LICENSE. (a) The board shall issue a temporary license to an applicant who:

(1) has not taken the licensing examination under Section 505.354 or the jurisprudence examination under Section 505.3545; and

(2) satisfies the requirements for obtaining a license under this chapter other than passing the licensing and jurisprudence examinations.

(b) A temporary license is valid until the results of the first appropriate licensing and jurisprudence examinations given after the date the license is issued are available.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Amended by Acts 2005, 79th Leg., ch. 707, Sec. 20, eff. Sept. 1, 2005.

Sec. 505.3575. ISSUANCE OF LICENSES TO CERTAIN OUT-OF-STATE APPLICANTS.

(a) Notwithstanding any other licensing requirement of this subchapter:

(1) the board may not require an applicant who is licensed in good standing in another state to pass a licensing examination conducted by the board under Section 505.354 if an applicant with substantially equivalent experience who resides in this state would not be required to take the licensing examination; and

(2) the board may issue a license to an applicant who is currently licensed in another state to independently practice social work if:

(A) after an assessment, the board determines that the applicant:

(i) demonstrates sufficient experience and competence;

(ii) has passed the jurisprudence examination conducted by the board under Section 505.3545; and

(iii) at the time of the application, is in good standing with the regulatory agency of the state in which the applicant is licensed; and

(B) the applicant presents to the board credentials that the applicant obtained from a national accreditation organization and the board determines that the requirements to obtain the credentials are sufficient to minimize any risk to public safety.

(b) When assessing the experience and competence of an applicant for the purposes of this section, the board may take into consideration any supervision received by the applicant in another state or jurisdiction if the

board determines that the supervision would be taken into consideration for the purpose of licensing or certification in the state or jurisdiction in which the applicant received the supervision.

Added by Acts 2005, 79th Leg., ch. 707, Sec. 21, eff. Sept. 1, 2005.

Sec. 505.358. PROVISIONAL LICENSE. (a) A person may apply for a provisional license as a social worker by paying the appropriate fee and filing an application with the board. The board may issue a provisional license to a person who meets the requirements of this section.

(b) An applicant for a provisional license must:

(1) be licensed or certified in good standing as a social worker in another state that has licensing or certification requirements determined by the board to be substantially equivalent to the requirements of this chapter;

(2) have passed a national or other examination recognized by the board relating to the practice of social work; and

(3) be sponsored by a person licensed under this chapter with whom the provisional license holder may practice social work.

(c) An applicant is not required to comply with Subsection (b)(3) if the board determines that compliance constitutes a hardship to the applicant.

(d) A provisional license is valid until the date the board approves or denies the provisional license holder's application for a license under Section 505.359.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 15, eff. Sept. 1, 2003.

Sec. 505.359. ISSUANCE OF LICENSE TO PROVISIONAL LICENSE HOLDER. (a) The board shall issue an appropriate license to a provisional license holder:

(1) who passes the licensing examination under Section 505.354 and the jurisprudence examination under Section 505.3545;

(2) for whom the board verifies that the person satisfies the academic and experience requirements under Section 505.353; and

(3) who satisfies any other license requirements under this chapter.

(b) The board shall complete the processing of a provisional license holder's application for a license not later than the 180th day after the date the provisional license is issued or the date licenses are issued after successful completion of the next licensing and jurisprudence examinations, whichever date is later.

(c) The board may waive a license requirement for

an applicant who is licensed or certified in another state if this state has entered into a reciprocity agreement with that state.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 22, eff. Sept. 1, 2005.

Sec. 505.360. PROFESSIONAL IDENTIFICATION.

(a) A license holder shall use an identification provided by this section:

(1) in the professional use of the license holder's name; and

(2) in connection with any sign, directory, contract, document, pamphlet, stationery, advertisement, signature, or other means of written professional identification.

(b) A licensed master social worker shall use the identification "licensed master social worker" or the initials "LMSW."

(c) A licensed baccalaureate social worker shall use the identification "licensed baccalaureate social worker" or the initials "LBSW."

(d) Repealed by Acts 2003, 78th Leg., ch. 892, Sec. 37.

(e) A licensed clinical social worker shall use the identification "licensed clinical social worker" or the initials "LCSW."

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 16, 37, eff. Sept. 1, 2003.

SUBCHAPTER H. RENEWAL OF LICENSE AND ORDER OF RECOGNITION OF SPECIALTY

Sec. 505.401. STAGGERED EXPIRATION DATES.

(a) The board by rule shall adopt a system under which licenses and orders of recognition of specialty expire on various dates during the year.

(b) In the year in which the expiration date of an order of recognition of specialty is changed, the total renewal fee is payable.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.402. RENEWAL OF LICENSE AND ORDER OF RECOGNITION OF SPECIALTY.

(a) A person may renew an unexpired license or order of recognition of specialty by paying the appropriate renewal fee required by the board to the department before the expiration date of the license or order.

(b) Not later than the 30th day before the expiration date of a person's license or order of recognition of specialty, the board shall send written notice of the impending license

or order expiration to the person at the person's last known address according to the board's records.

(c) A person whose license or order of recognition of specialty has been expired for less than one year may renew the license or order by paying to the department the appropriate renewal fee required by the board for the expired license or order.

(d) Except as provided by Section 505.403, a person whose license or order of recognition of specialty has been expired for one year or more may not renew the license or order. The person may obtain a new license or order by submitting to reexamination.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2001, 77th Leg., ch. 1420, Sec. 14.270(a), eff. Sept. 1, 2001; Acts 2005, 79th Leg., ch. 707, Sec. 23, eff. Sept. 1, 2005.

Sec. 505.403. RENEWAL OF EXPIRED LICENSE BY OUT-OF-STATE PRACTITIONER. (a) The board may renew without reexamination an expired license or order of recognition of specialty of a person who was licensed in this state, moved to another state, and is currently licensed or certified and has been in practice in the other state for the two years preceding the date the person applied for a renewal license or order.

(b) The person must pay to the department a fee that is equal to the amount of the appropriate renewal fee for the license or order, as required by the board.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 24, eff. Sept. 1, 2005.

Sec. 505.404. CONTINUING EDUCATION. (a) The board by rule shall:

(1) establish mandatory continuing education requirements for license holders under this chapter; and

(2) establish a minimum number of hours of continuing education required to renew a license or an order of recognition of specialty.

(b) In establishing continuing education requirements, the board shall:

(1) assess the continuing education needs of persons who hold licenses or orders of recognition of specialty;

(2) adopt procedures to assess the participation of a person who holds a license or order of recognition of specialty in continuing education programs; and

(3) identify the key factors for the competent performance of professional duties by a person who holds a license or order of recognition of specialty.

(c) The board by rule shall develop a process to evaluate and approve continuing education courses. The board may require persons who hold licenses or orders of recognition of specialty to attend continuing education courses specified by the board.

(d) For the purpose of establishing and maintaining continuing education programs, the board or department may take any action necessary to qualify for, accept, and receive funds and grants from any source, including the United States, this state, or a private foundation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 17, eff. Sept. 1, 2003.

Sec. 505.405. GROUNDS FOR REFUSING RENEWAL. The board may refuse to renew the license of a person who fails to pay an administrative penalty imposed under Subchapter K unless enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

Added by Acts 2005, 79th Leg., ch. 707, Sec. 25, eff. Sept. 1, 2005.

SUBCHAPTER I. DENIAL OF LICENSE OR ORDER AND DISCIPLINARY PROCEDURES

Sec. 505.451. GROUNDS FOR DENIAL OF LICENSE OR ORDER OF RECOGNITION OF SPECIALTY; DISCIPLINARY ACTION.

The board shall deny an application for a license or order of recognition of specialty and shall revoke or suspend, including a suspension on an emergency basis, a license or order, place a holder of a license or order that has been suspended on probation, refuse to renew a person's license, or reprimand a holder of a license or order for:

(1) violating this chapter or a rule adopted by the board under this chapter;

(2) circumventing or attempting to circumvent the requirements of this chapter or a rule adopted by the board under this chapter;

(3) directly or indirectly participating in a scheme to evade the requirements of this chapter or a rule adopted by the board under this chapter;

(4) engaging in unethical conduct;

(5) engaging in conduct that discredits or tends to discredit the social work profession;

(6) performing an act, allowing an omission, or making an assertion or representation that is fraudulent, deceitful, or misleading or that tends to create a misleading impression;

(7) knowingly associating with or permitting the use of a license holder's professional services or identification in connection with an enterprise that the person knows or should have known in the exercise of reasonable diligence violates this chapter or a rule adopted by the board under this chapter;

(8) knowingly associating with or permitting the use of a license holder's name, professional services or identification, or endorsement in connection with an enterprise that the person knows or should have known in the exercise of reasonable diligence is a trade, business, or professional practice of a fraudulent, deceitful, or misleading nature;

(9) directly or indirectly revealing or causing to be revealed a confidential communication transmitted to the license holder by a client or other recipient of the license holder's services unless revealing the communication is required by law;

(10) having been denied an application for a license or certificate to practice social work in another jurisdiction for a reason that the board determines would be a violation of this chapter or a rule adopted by the board under this chapter;

(11) holding a license or certificate in another jurisdiction that is suspended or revoked for a reason that the board determines would be a violation of this chapter or a rule adopted by the board under this chapter;

(12) having been convicted of a felony in this state, another state, or the United States;

(13) refusing to perform an act or service within the scope of the license holder's license solely because of the recipient's age, sex, race, religion, national origin, color, or political affiliation; or

(14) committing an act for which liability exists under Chapter 81, Civil Practice and Remedies Code. *Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 26, eff. Sept. 1, 2005.*

Sec. 505.452. CONDITIONS OF PROBATION.

The board may require a person for whom a suspension of a license or order of recognition of specialty is probated to:

(1) report regularly to the board on matters that are the basis of the probation;

(2) limit practice to the areas prescribed by the board; or

(3) continue or review continuing professional education until the person attains a degree of skill satisfactory to the board in each area that is a basis of the probation.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.453. EMERGENCY SUSPENSION. The

suspension by the board of a license or order of recognition of specialty on an emergency basis is effective immediately.

The board shall provide an opportunity for a hearing to be held not later than the 20th day after the date of the emergency suspension.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.454. SANCTIONS FOR HOLDER OF EXPIRED LICENSE OR ORDER OF RECOGNITION OF SPECIALTY.

(a) A person who holds an expired license or order of recognition of specialty under this chapter is subject to a sanction under this chapter if the board determines that the person violated this chapter or a rule adopted by the board under this chapter during the period in which the license or order was valid.

(b) Sections 505.455(b) and (c) and 505.456 apply to a disciplinary proceeding against a person under this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.455. PROCEDURE; HEARING. (a) A proceeding under Section 505.451 is initiated when a person files a written charge under oath with the department that is referred to the board. A charge may be filed by any person.

(b) A person subject to a sanction under Section 505.451 is entitled to notice and hearing before the State Office of Administrative Hearings before the sanction is imposed.

(c) Disciplinary proceedings and appeals from disciplinary proceedings of the board are governed by Chapter 2001, Government Code.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.456. SCHEDULE OF SANCTIONS. (a) The board by rule shall adopt a broad schedule of sanctions for violations of this chapter.

(b) The State Office of Administrative Hearings shall use the schedule of sanctions for any sanction imposed as a result of a hearing conducted by that office.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.457. INFORMAL PROCEDURES. (a) The board by rule shall adopt procedures governing:

(1) informal disposition of a contested case under Section 2001.056, Government Code; and

(2) an informal proceeding held in compliance with Section 2001.054, Government Code.

(b) Rules adopted under Subsection (a) must:

(1) provide the complainant and the holder of a license or order of recognition of specialty an opportunity to be heard; and

(2) require the presence of a representative of the attorney general or the department's legal staff to advise the board or the board's employees.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.458. REFUND. (a) Subject to Subsection (b), the board may order a license holder to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty under this chapter.

(b) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the license holder for a service regulated by this chapter. The board may not require payment of other damages or estimate harm in a refund order.

Added by Acts 2005, 79th Leg., ch. 707, Sec. 27, eff. Sept. 1, 2005.

SUBCHAPTER J. PENALTIES AND ENFORCEMENT PROVISIONS

Sec. 505.501. MONITORING OF LICENSE HOLDER. The board by rule shall develop a system for monitoring compliance with this chapter by a person who holds a license or order of recognition of specialty. The rules under this section must include procedures to:

(1) monitor for compliance a person who holds a license or order who is ordered by the board to perform certain acts; and

(2) identify and monitor persons who hold licenses or orders of recognition of specialty who represent a risk to the public.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.502. PROHIBITED CONDUCT BY BUSINESS OR PROFESSIONAL ENTITY. (a) Except as provided by Subsection (b), a business or professional entity may not:

(1) represent itself or another to the public as being engaged in the practice of social work or as offering social work services under an assumed, trade, business, professional, partnership, or corporate name or title;

(2) directly or indirectly use or cause to be used the term "social work," "social work services," "social work, inc.," "social workers," "licensed social workers," "licensed baccalaureate social workers," "licensed master social workers," "licensed clinical social workers," "LMSW," "LSW," "LBSW," or "LCSW," or any combination, abbreviation, or variation of those terms; or

(3) directly or indirectly use or cause to be used a term listed in Subdivision (2) in combination with any

other word, letter, initial, sign, legend, or symbol on, in, or directly or indirectly as a part of:

(A) any sign, directory, contract, pamphlet, stationery, advertisement, or other document;

(B) a signature; or

(C) a trade, assumed, corporate, or other business or professional name.

(b) A business or professional entity may engage in conduct described by Subsection (a) if:

(1) the entity is actively engaged in the practice of social work; and

(2) the social work services that constitute the entity's practice are:

(A) personally performed by a social worker who is practicing in accordance with this chapter; or

(B) performed under the supervision of a licensed baccalaureate social worker, licensed master social worker, or licensed clinical social worker.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999. Amended by Acts 2003, 78th Leg., ch. 892, Sec. 18, eff. Sept. 1, 2003.

Sec. 505.503. INJUNCTION. (a) In addition to any other action authorized by law, an action may be initiated in a district court to restrain a violation or threatened violation of this chapter, a rule adopted by the board under this chapter, or an order issued by the board or department under this chapter.

(b) Venue for an action brought under this section is in:

(1) Travis County;

(2) the county in which the defendant resides; or

(3) the county in which any part of the alleged violation occurred.

(c) At the request of the board or department, the attorney general shall initiate and conduct an action in a district court in the state's name to obtain an injunction under this section.

(d) To obtain an injunction under this section, it is not necessary to allege or prove that:

(1) an adequate remedy at law does not exist; or

(2) substantial or irreparable damage would result from the continued violation.

(e) Any party in an action brought under this section may appeal.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.504. CIVIL PENALTY. (a) A person who violates or threatens to violate this chapter, a rule adopted by

the board under this chapter, or an order issued by the board or department under this chapter is liable to the state for a civil penalty of not less than \$50 or more than \$500 for each day of violation.

(b) At the request of the board or department, the attorney general shall initiate and conduct an action in a district court in the state's name to obtain a civil penalty under this section.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.505. APPEAL BOND NOT REQUIRED.

The board or department is not required to post an appeal bond in any action arising under this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.506. REPRESENTATION BY ATTORNEY

GENERAL. The attorney general shall represent the board or department in an action brought to enforce this chapter.

Acts 1999, 76th Leg., ch. 388, Sec. 1, eff. Sept. 1, 1999.

Sec. 505.507. CRIMINAL PENALTY.

(a) A person required to hold a license under this chapter commits an offense if the person knowingly acts as a social worker without holding a license issued under this chapter.

Text of subsec. (b) as added by Acts 2003, 78th Leg., ch. 326, Sec. 12

(b) An offense under Subsection (a) is a Class A misdemeanor.

Text of subsec. (b) as added by Acts 2003, 78th Leg., ch. 892, Sec. 19

(b) An offense under Subsection (a) is a Class B misdemeanor.

Added by Acts 2003, 78th Leg., ch. 326, Sec. 12, eff. Sept. 1, 2003; Acts 2003, 78th Leg., ch. 892, Sec. 19, eff. Sept. 1, 2003.

Sec. 505.508. CEASE AND DESIST ORDER.

If it appears to the board that a person who is not licensed under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to the practice of social work, the board after notice and opportunity for a hearing may issue a cease and desist order prohibiting the person from engaging in the activity.

Added by Acts 2005, 79th Leg., ch. 707, Sec. 28, eff. Sept. 1, 2005.

SUBCHAPTER K. ADMINISTRATIVE PENALTY

Sec. 505.551. IMPOSITION OF ADMINISTRATIVE

PENALTY. The board may impose an administrative penalty

on:

(1) a person licensed under this chapter who violates this chapter or a rule or order adopted under this chapter; and

(2) a person who violates a cease and desist order issued by the board under Section 505.508.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.271(a), eff. Sept. 1, 2001. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 29, eff. Sept. 1, 2005.

Sec. 505.552. AMOUNT OF ADMINISTRATIVE PENALTY.

(a) The amount of the administrative penalty may not be less than \$50 or more than \$5,000 for each violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(b) The amount shall be based on:

(1) the seriousness of the violation, including the nature, circumstances, extent, and gravity of the violation;

(2) the economic harm caused by the violation;

(3) the history of previous violations;

(4) the amount necessary to deter a future violation;

(5) efforts to correct the violation; and

(6) any other matter that justice may require.

(c) The board by rule shall adopt an administrative penalty schedule based on the criteria listed in Subsection (b) for violations of this chapter or board rules to ensure that the amounts of penalties imposed are appropriate to the violation. The board shall provide the administrative penalty schedule to the public on request.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.271(a), eff. Sept. 1, 2001. Amended by Acts 2005, 79th Leg., ch. 707, Sec. 30, eff. Sept. 1, 2005.

Sec. 505.553. REPORT AND NOTICE OF VIOLATION AND PENALTY.

(a) If the executive director determines that a violation occurred, the director may issue to the board a report stating:

(1) the facts on which the determination is based; and

(2) the director's recommendation on the imposition of an administrative penalty, including a recommendation on the amount of the penalty.

(b) Within 14 days after the date the report is issued, the executive director shall give written notice of the report to the person. The notice must:

(1) include a brief summary of the alleged violation;

(2) state the amount of the recommended

administrative 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.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.271(a), eff. Sept. 1, 2001.

Sec. 505.554. PENALTY TO BE PAID OR HEARING REQUESTED. (a) Within 10 days after the date the person receives the notice, the person in writing may:

(1) accept the determination and recommended administrative penalty of the executive director; or

(2) make a request for a hearing on the occurrence of the violation, the amount of the penalty, or both.

(b) If the person accepts the determination and recommended penalty of the executive director, the board by order shall approve the determination and impose the recommended penalty.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.271(a), eff. Sept. 1, 2001.

Sec. 505.555. 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 written 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 about the occurrence of the violation and the amount of a proposed administrative penalty.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.271(a), eff. Sept. 1, 2001.

Sec. 505.556. DECISION BY BOARD. (a) Based on the findings of fact, conclusions of law, and proposal for 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 must include a statement of the right of the person to judicial review of the order.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.271(a), eff. Sept. 1, 2001.

Sec. 505.557. OPTIONS FOLLOWING DECISION: PAY OR APPEAL. (a) Within 30 days after the date the board's order becomes final, the person shall:

(1) pay the administrative penalty; or

(2) 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 prescribed by Subsection (a), a person who files a petition for judicial review may:

(1) stay enforcement of the penalty by:

(A) paying the penalty to the court for placement in an escrow account; or

(B) giving the court a supersedeas bond approved by the court that:

(i) is for the amount of the penalty; and

(ii) is effective until all 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 director may file with the court, within five days after the date the copy is received, a contest to the affidavit.

(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 an affidavit has the burden of proving that the person is financially unable to pay the penalty and to give a supersedeas bond.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.271(a), eff. Sept. 1, 2001.

Sec. 505.558. COLLECTION OF PENALTY. (a) If the person does not pay the administrative penalty and the enforcement of the penalty is not stayed, the penalty may be collected.

(b) The attorney general may sue to collect the penalty.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.271(a), eff. Sept. 1, 2001.

Sec. 505.559. DETERMINATION BY COURT. (a) If the court sustains the determination that a violation occurred, the court may uphold or reduce the amount of the administrative penalty and order the person to pay the full or reduced amount of the penalty.

(b) If the court does not sustain the finding that a violation occurred, the court shall order that a penalty is not

owed.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.271(a), eff. Sept. 1, 2001.

Sec. 505.560. REMITTANCE OF PENALTY AND INTEREST. (a) If the person paid the administrative penalty and if the amount of the penalty is reduced or the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, that the appropriate amount plus accrued interest be remitted to the person.

(b) The interest accrues at the rate charged on loans to depository institutions by the New York Federal Reserve Bank.

(c) 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.

(d) If the person gave a supersedeas bond and the penalty is not upheld by the court, the court shall order, when the court's judgment becomes final, the release of the bond.

(e) If the person gave a supersedeas bond and the amount of the penalty is reduced, the court shall order the release of the bond after the person pays the reduced amount.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.271(a), eff. Sept. 1, 2001.

Sec. 505.561. ADMINISTRATIVE PROCEDURE. A proceeding under this section is a contested case under Chapter 2001, Government Code.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.271(a), eff. Sept. 1, 2001.

SUBCHAPTER L. REPORTS OF CERTAIN VIOLATIONS

Sec. 505.601. REPORT OF VIOLATION. In a written, signed report to the appropriate licensing board, agency, or facility, a person licensed under this chapter may report an incident that the person has reasonable cause to believe has exposed a client to substantial risk of harm, including:

(1) a failure to provide care that conforms to the minimum standards of acceptable and prevailing professional practice;

(2) illegal billing practices; or

(3) falsification of records.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.272(a), eff. Sept. 1, 2001.

Sec. 505.602. REPORTING IMMUNITY. A person who, without malice, makes a report authorized, or reasonably believed to be authorized, under this subchapter:

(1) is immune from civil liability; and

(2) may not be subjected by the person's employer to other retaliatory action as a result of making the report.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.272(a), eff. Sept. 1, 2001.

Sec. 505.603. CAUSE OF ACTION FOR RETALIATION. (a) A person named as a defendant in a civil action or subjected by the person's employer to other retaliatory action as a result of filing a report authorized, or reasonably believed to be authorized, under this subchapter may file a counterclaim in the pending action or prove a cause of action in a subsequent suit to recover defense costs, including reasonable attorney's fees and actual and punitive damages, if the suit or retaliatory action is determined to be frivolous, unreasonable, or taken in bad faith.

(b) A person may not suspend or terminate the employment of, or otherwise discipline or discriminate against, a person who makes a report, without malice, under this subchapter.

(c) A person who makes a report under this subchapter has a cause of action against a person who violates Subsection (b) and may recover:

(1) the greater of:

(A) actual damages, including damages for mental anguish even if no other injury is shown; or

(B) \$1,000;

(2) exemplary damages;

(3) court costs; and

(4) reasonable attorney's fees.

(d) In addition to the amount recovered under Subsection (c), a person whose employment is suspended or terminated in violation of this section is entitled to:

(1) reinstatement in the employee's former position or severance pay in an amount equal to three months of the employee's most recent salary; and

(2) compensation for wages lost during the period of suspension or termination.

(e) A person who brings an action under this section has the burden of proof. It is a rebuttable presumption that the person's employment was suspended or terminated for making a report under this subchapter if:

(1) the person was suspended or terminated within 60 days after the date the report was made; and

(2) the person to whom the report that is the subject of the cause of action was made or the court determines that the report was:

(A) authorized under this subchapter; and

(B) made without malice.

(f) An action under this section may be brought in a district court of the county in which:

- (1) the plaintiff resides;
- (2) the plaintiff was employed by the defendant; or
- (3) the defendant conducts business.

Added by Acts 2001, 77th Leg., ch. 1420, Sec. 14.272(a), eff. Sept. 1, 2001.