

BILL ANALYSIS

Senate Research Center

C.S.S.B. 2001
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Health & Human Services
4/13/2017
Committee Report (Substituted)

AUTHOR'S / SPONSOR'S STATEMENT OF INTENT

On January 12, 2016, the United States Court of Appeals for the 5th Circuit (5th Circuit) struck down Texas' definition of psychological services in the Psychologists' Licensing Act in the opinion *Serafine v. Branaman*. The court's ruling effectively prevents the Texas State Board of Examiners of Psychologists (TSBEP) from taking action against an individual practicing psychology in Texas without a license. Whether the ruling will affect only TSBEP or be felt throughout Texas' other mental health professions remains to be seen.

As part of the Sunset process for TSBEP, Sunset Advisory Commission (Sunset's) staff made a recommendation for TSBEP to develop three definitions that would be approved by the House Public Health Committee and the Senate Health and Human Services Committee. Because Sunset did not feel it was appropriate to mandate certain committees to take specific legislative action, Sunset modified this recommendation and instead directed TSBEP to appoint a working group of stakeholders to develop three definition options.

S.B. 2001 adopts one of those definitions to ensure that TSBEP can once again protect citizens from the unlicensed provision of psychological services. (Original Author's / Sponsor's Statement of Intent)

C.S.S.B. 2001 amends current law relating to conduct that constitutes the practice of psychology.

RULEMAKING AUTHORITY

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

SECTION BY SECTION ANALYSIS

SECTION 1. Amends Section 501.003, Occupations Code, as follows:

Sec. 501.003. New heading: DEFINITION: PRACTICE OF PSYCHOLOGY. (a) Defines "practice of psychology" and "psychological services."

(b) Provides that a person is engaged in the practice of psychology if the person:

(1) when providing or offering to provide psychological services to another in a professional relationship, represents the person to the public by a title or description of services that includes the word "psychological," "psychologist," or "psychology";

(2) provides or offers to provide psychological services to individuals, groups, organizations, or the public in a professional relationship;

(3) and (4) makes no changes to these subdivisions.

(c) Provides that a person is not engaged in the practice of psychology based solely on the person offering, regardless of whether the person is solicited, advice, counsel, or guidance addressing or affecting the mental, emotional, or behavioral

health of another, if the person does not represent that the person is licensed under this chapter (Psychologists) or engaged in the delivery of psychological services and does not represent that the advice, counsel, or guidance is psychological in nature, and:

(1) the advice, counsel, or guidance is not offered in the context of a professional relationship;

(2) if the person is offering the advice, counsel, or guidance in connection with the person's occupation, the primary focus of the occupation is not the delivery of mental, emotional, or behavioral health care services; or

(3) the advice, counsel, or guidance is offered through an organized or structured program or peer support service that is designed to support or assist a person with a self-identified goal of changing or improving certain aspects of the person's mental, emotional, or behavioral health.

Deletes existing Subdivisions (2) through (4) defining "practice of psychology."

SECTION 2. Effective date: September 1, 2017.