



**Office of the Attorney General
State of Texas**

DAN MORALES
ATTORNEY GENERAL

May 10, 1996

**Ms. Rebecca E. Forkner
Executive Director
Texas State Board of Examiners
of Psychologists
333 Guadalupe, Suite 2-450
Austin, Texas 78701**

Letter Opinion No. 96-050

**Re: Duties of the Psychological Associate
Advisory Committee to the State Board of
Examiners of Psychologists (ID# 38613)**

Dear Ms. Forkner:

You ask this office to consider the authority and status of the Psychological Associate Advisory Committee (the "PAAC") in relation to the State Board of Examiners of Psychologists (the "board").

The PAAC was created by section 19A of article 4512c, V.T.C.S., the Psychologists' Certification and Licensing Act. It is defined by section 19A(a) as "an advisory committee to the Board," and by section 19A(k) is made subject to the Open Meetings, Open Records, and Administrative Procedure Acts and their subsequent amendments. Section 19A(l) delineates the areas in which the PAAC is to develop and recommend rules for the board. They are:

- (1) the license qualifications for psychological associates;
- (2) the supervision requirements for psychological associates practicing less than five years;
- (3) the permitted activities and services within the practice of psychological associates;
- (4) the schedule of disciplinary sanctions required by section 23(b) of th[e] Act that apply to psychological associates;
- (5) the continuing education requirements for psychological associates;
- (6) the proportional billing guidelines for services rendered by psychological associates with less than five years experience; and
- (7) the guidelines, including additional educational requirements, for practice with minimal supervision for psychological associates with five or more years of experience.

We note that each and all of these areas involve the formulation and recommendation of rules concerning "psychological associates." Such "associates" are "[s]ub-doctoral personnel [who] must have a master's degree in a program that is primarily psychological in nature in an accredited university or college." V.T.C.S. art. 4512c, § 19. The board, with the advice of the PAAC, "set[s] standards for qualification and issue[s] licenses for" such personnel. *Id.*

You have asked us the extent of the PAAC's ability to formulate and recommend rules. In particular, you seek to know whether the PAAC has authority to formulate rules which may affect other licensees besides psychological associates. In our view, it does not. The legislature has given the PAAC no rule-making authority whatever, and has clearly delimited its power to recommend rules to the seven statutory categories listed above, all of which are limited in their effect to "psychological associates." Given this detailed and restrictive scheme, and moreover given that the board, and not the PAAC, has under section 8(a) of the act been given general rule-making authority, we think the interpretation of section 19 must be governed by the maxim, "*Expressio unius est exclusio alterius*," that is, the expression of one thing is the exclusion of others. In short, the legislature, which in section 19 gave express power to the PAAC to formulate rules in enumerated areas concerning psychological associates, must be presumed not to have given it power to formulate rules concerning other persons subject to the supervision and licensing of the board.

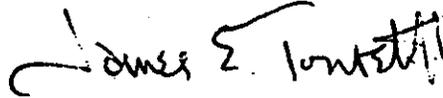
You further ask whether the PAAC is a part of the board and therefore subject to its authority. We think the answer to this question is plainly affirmative. The PAAC is defined by the statute creating it as "an advisory committee to the Board." *Id.* § 19A(a). It has no independent regulatory authority, but can only develop and recommend rules to the board. It is a creation of the Psychologists' Certification and Licensing Act, section 8(a) of which gives to the board the power to make "all rules, not inconsistent with the Constitution and laws of this state, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it." *Id.* § 8(a). Moreover, as you inform us, it receives no appropriations separate from the board, meets at the offices of the board, and has no separate staff and resources. Clearly the PAAC is a part of the board, and as such is accordingly bound by the general rules and regulations of the board.

S U M M A R Y

The Psychological Associate Advisory Committee is a part of the State Board of Examiners of Psychologists, and subject to that body's general rules and regulations. Its authority to recommend rules to the State Board of Examiners of Psychologists is limited to those areas concerning psychological associates expressly listed in

section 19A(1) of article 4512, V.T.C.S. It has no authority to develop or recommend rules concerning any other persons regulated by the board.

Yours very truly,

A handwritten signature in black ink, appearing to read "James E. Tourtelott". The signature is written in a cursive style with a large initial "J" and a long horizontal stroke extending to the right.

James E. Tourtelott
Assistant Attorney General
Opinion Committee