

**TEXAS STATE
BOARD OF
EXAMINERS OF
PSYCHOLOGISTS**



EXECUTIVE DIRECTOR

Patricia S. Bizzell Tweedy, M.P.A.
9101 Burnet Road
Suite 212
Austin, Texas 78758
512-835-2036

November 22, 1991

RQ-265

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The Honorable Dan Morales
Attorney General of the
State of Texas
Office of the Attorney General
Supreme Court Building
Austin, TX 78701

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Admission Commission

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Dear Attorney General Morales:

The Texas State Board of Examiners of Psychologists is requesting a formal opinion from the Attorney General's Office to determine whether the Department of Licensing and Regulation, Article 5521a-8, V.T.C.S., (hereafter referred to as "Department") can impose regulation upon the legitimate activities of psychologists who provide career and vocational assessment counseling and consultation. The Department has taken the position that psychologists must satisfy the requirements of the Texas Career Counseling Services Act (hereafter referred to as "TCCSA") passed in 1987 by the 70th Legislature which the Department regulates.

The bill analysis for S.B. 1142 prior to its enactment as the TCCSA states that the purpose of S.B. 1142 is to set "standards for career counseling services that will enable the legitimate services to provide unemployed persons valuable services in job hunting, while providing efficient methods to get unscrupulous operators out of the field." The need for this law emerged in response to Texas' high unemployment of the mid to late 1980s and which had previously not been regulated.

It is the Psychology Board's position that the intent of the TCCSA is to regulate a commercial activity not a specific group of professionals. The TCCSA does not identify any professional training requirements, any credentials requirements, or any requirement to adhere to ethical standards of any profession.

Article 4512c, V.T.C.S. the Psychologists' Certification and Licensing Act, on the other hand, was passed in 1969, in an effort to protect the public through regulation of the practice of psychology and through evaluation of the qualifications and activities of persons offering to perform psychological services to the citizens of Texas. The practice of psychology is defined in part in Section 2 of the Psychologists'

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Certification and Licensing Act as "an offering to the public or rendering to individuals or groups any service, including computerized procedures, that involves but is not restricted to the application of established principles, methods, and procedures of describing, explaining, and ameliorating behavior". In effect, it is the methods and procedures used that determine whether an activity is the practice of psychology and not the problems to which those methods and procedures are applied. It is the Board's position that the application of psychological principles, methods, and procedures in a career or work context is the practice of psychology.

The Board is concerned that the overly broad interpretation of the Department deviates from legislative intent and does not protect the public. If the inappropriate application of the TCCSA to regulate the practice of psychology is allowed, several consequences may occur: (1) state resources will be squandered by the unnecessary duplication of Texas' regulatory processes; (2) specific requirements of the TCCSA (e.g. interview and contract requirements) although appropriate and useful for the activities intended to be regulated by the Act, are at best unnecessary and at worst damaging to the appropriate practice of psychology; and (3) to the extent that the Act is used to regulate psychology, the implication is that persons who receive a Certificate of Authority pursuant to the TCCSA may practice psychology without the legally required education, training, and experience.

It is the Board's position that the Psychology Board is the regulatory agency mandated to regulate the profession of psychology. Adequate protection of the public for the activities of psychologists is currently in place by the Psychology Board. Requiring registration with another State agency complicates and confuses genuine and needed regulations to protect the citizens of Texas, threatens to place an extra economic burden on professionals presently being regulated causing increased costs to consumers, and serves no legitimate State purpose.

We respectfully request the Attorney General to indicate that the Board provides sufficient oversight on the practice of psychology and that the Department has no purpose in regulating the practice of psychology.

Sincerely,

Patricia S. Tweedy

Patricia S. Tweedy
Executive Director

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