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November 1, 2022

VIA EMAIL TO OPINION.COMMITTEE@OAG.TEXAS.GOV

The Honorable Ken Paxton
Attorney General of Texas
Attn: Opinions Committee
P.O. Box 12548
Austin, Texas 78711-2548

Dear Mr. Paxton:

The Texas Behavioral Health Executive Council (hereinafter referred to as “the Council”) respectfully requests a Texas Attorney General opinion regarding a rule amendment that has been proposed and may be adopted as early as January 31, 2023. 22 Texas Administrative Code Section 465.38(d) has been proposed to be amended as follows:

- (d) The correct title for an individual holding a specialist in school psychology license is Licensed Specialist in School Psychology ~~or (LSSP)~~, or the individual may use the title School Psychologist or Licensed School Psychologist as referenced in Section 21.003 of the Education Code. An LSSP who has achieved certification as a Nationally Certified School Psychologist (NCSP) may use this credential along with the license title of LSSP.¹

Section 501.260(a) of the Occupations Code requires the Council to issue a license to a licensed specialist in school psychology (LSSP). As stated in Section 501.260(a), this license is the appropriate credential for a person who provides psychological services as required by Section 21.003(b) of the Education Code. Pursuant to Section 21.003(b), a person may not be employed by a school district as a school psychologist or associate school psychologist unless the person is licensed by the state agency that licenses that profession, the Education Code does not use or recognize the title LSSP.

Historically, the Texas State Board of Examiners of Psychologists, and now the Council, has always required these licensees to only use the title LSSP, but nationally these licensees are known in most states as school psychologists. In fact, the Texas and national associations for this license type are called the

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Texas Association of School Psychologists and the National Association of School Psychologists. The Council has received comments from LSSPs and the Texas association that the title LSSP continues to cause much public confusion, since very few people are familiar with the title of LSSP and virtually all are familiar with or understand the title school psychologist. The purpose for this proposed rule change is to help address the public's confusion regarding this license type, so the public can better understand and recognized who they are and what activities they are licensed to perform.

While Section 501.260(a) does require the title of the license issued to be LSSP, Section 21.003(b) seems to allow for the possibility of a different title being used for this license. Additionally, this will not be the first instance when an LSSP can refer to themselves as a school psychologist. According to previous Texas Attorney General Opinion No. GA-0897 (2011), the use of the title Nationally Certified School Psychologist by an LSSP does not violate Chapter 501 of the Occupations Code if the licensee has obtained the necessary credentials for this certification.

The Council believes this proposed amendment is within the agency's statutory authority to adopt, but it would like an opinion on this matter prior to adoption of the proposed change. Therefore, the Council respectfully requests the Texas Attorney General's opinion as to whether this proposed rule amendment exceeds the Council's statutory authority or not.

Affected or Interested Groups or Parties

The Council has identified the following persons or groups likely to be interested in the opinion.

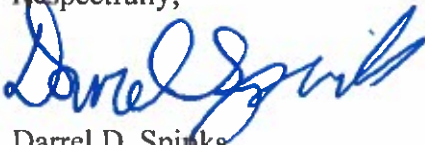
Texas Psychological Association
P.O. Box 163236
Austin, Texas 78716

Texas Association of Psychological Associates
P.O. Box 601374
Dallas, Texas 75360

Texas Association of School Psychologists
P.O. Box 141023
Austin, Texas 78714

The Council appreciates your review of this matter and looks forward to your opinion. If additional information is required, please contact Patrick Hyde, the Council's General Counsel, at (512) 305-7700.

Respectfully,



Darrel D. Spinks
Executive Director
Texas Behavioral Health Executive Council

¹ During the Council's October 25, 2022 public meeting the possibility of adopting this rule with changes was discussed. The proposed title "Licensed School Psychologist" may be deleted, but the title "School Psychologist" may remain, in order to match the exact verbiage from Section 21.003(b) of the Education Code.