



## Support SB 114 (Hinojosa)

**SB 114** is the Sunset bill for each licensed mental health professional regulatory board. It reflects the arduous work of the Sunset Commission and input from hundreds of stakeholders over an extended period of time. The Sunset Commission voted unanimously to create the Texas Behavioral Health Executive Council.

**SB 114** is an innovative strategy that creates efficiency, maintains appropriate oversight of mental health professionals, aligns with the state's goal of responsible consolidation, takes full advantage of operational efficiencies and economies of scale, as well as protecting the state's immunity from restraint of trade claims.

**SB 114** is supported by the mental health professional licensing boards – including the Texas Board of Examiners of Psychologists – and the professional associations listed above. Continuation of these licensing boards is essential to protect the public and address the mental health workforce shortages in Texas.

The associations listed above are collaborating with SB 114 authors on an amendment to incorporate language consistent with the Sunset Commission's unanimous recommendation to accomplish the following:

- Administratively houses at the newly created Texas Behavioral Health Executive Council: the Texas State Board of Examiners of Professional Counselors, Texas Board of Social Work Examiners, Texas State Board of Examiners of Marriage and Family Therapists, Texas Board of Examiners of Psychology as well as the advisory committees that oversee Sex Offender Treatment Providers and Chemical Dependency Counselors.
- Retains appropriate oversight and accountability by continuing the existing structure for each licensing board. The Governor will continue to appoint nine members to each board in accordance with the Occupations Code.
- Creates an Executive Council chaired by a public member appointed by the Governor and includes one public and one professional member selected by each licensing board from its membership. This public member majority structure avoids the probability that Texas will lose its claim of State Action Immunity.
  - *The Supreme Court in North Carolina State Board of Dental Examiners vs. Federal Trade Commission upheld the restraint of trade claim made by the FTC because "a majority of the board members are engaged in the active practice of the profession it regulates."*
- Allows each licensing board to develop substantive rules on standards of care, licensure, educational requirements and disciplinary guidelines for their respective professions.
- Provides Executive Council rule approval authority proposed by each independent licensing Board. Ensures that neither the Executive Council nor any licensing board may propose or establish rules that govern any other mental health profession or result in a rule that restrains trade or is anti-competitive.

### **SB 114:**

- **Does NOT** create a model in which any mental health licensing board or the Executive Committee could impose standards or modify the scope of practice for any other profession.
- **Does NOT** change the composition of the Texas Board of Examiners of Psychology, which currently includes public members as well as a Licensed Psychological Associate and a Licensed Specialist in School Psychology. The lack of a psychologist majority on their current board has not had an adverse impact on psychologists.
- **Does NOT** have a fiscal note. The costs for the Executive Council are covered by the licensing fees paid by each of the consolidated mental health professional boards.

## **Background**

- All mental health professionals licensed to provide clinical mental health services are required to complete a rigorous graduate program and a minimum of 3,000 hours of clinical supervision.
- Doctoral degrees are held by many mental health professionals, not just psychologists. Many Licensed Professional Counselors, Licensed Marriage and Family Therapists, Licensed Clinical Social Workers and Licensed Specialists in School Psychology hold doctorates.
- All licensed mental health professionals may deliver services in forensic, criminal and juvenile justice settings provided they have the training to practice in those fields.

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