



TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

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November 14, 1991

The Honorable Dan Morales
Attorney General of Texas
P. O. Box 12548
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Attn.: Opinions Committee

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Opinions Committee

Re: Request for Opinion

Dear General Morales:

The Texas State Board of Examiners of Professional Counselors ("Professional Counselors Board") licenses and regulates licensed professional counselors in the State of Texas. An issue has arisen as to whether projective techniques are solely within the scope of the practice of psychology under V.T.C.S., Article 4512c or whether other mental health professionals, in particular licensed professional counselors, may use projective techniques in certain instances. The Professional Counselors Board unanimously voted to request an opinion on this issue at its meeting on November 6, 1991.

The Texas State Board of Examiners of Psychologists ("Psychologists Board") proposed a rule on October 1, 1991 at 16 Tex Reg 5378 which states that projective techniques are the practice of psychology. A review of Article 4512c indicates that projective techniques are not mentioned in that statute. It is the assumption of the Professional Counselors Board that the Psychologists Board believes that the definition of "psychological services" in §2(c) of Article 4512c means that projective techniques are exclusively within the scope of the practice of psychology. The Professional Counselors Board disagrees with this opinion.

The Licensed Professional Counselor Act, V.T.C.S., Article 4512g defines the "practice of counseling" in §2(7). Paragraph (B) of that definition mentions the use of projective techniques. It is the interpretation of the Professional Counselors Board that this definition means that a licensed professional counselor may not use projective techniques in the assessment of personality; however, a licensed professional counselor is not prohibited from using projective techniques in the assessment of an individual's

aptitudes, attitudes, abilities, achievements, interests, and personal characteristics, to the extent that these assessments are not assessments of personality. In addition a licensed professional counselor is authorized to perform counseling; counseling, guidance, and personal consulting; referral activities; and research activities. These latter activities could involve the use of projective techniques so long as the techniques are not used in the assessment of personality.

Under the rules of statutory construction and since Article 4512g allows licensed professional counselors to use projective techniques unless used to assess personality, a licensed professional counselor will fall within the exemption in Article 4512c, §22(c). The Psychologists Board cannot regulate a licensed professional counselor falling within that exemption. The Psychologists Board's attempt to prevent licensed professional counselors from using any projective techniques is beyond the scope of the authority given to the Psychologists Board under Article 4512c.

In addition several statements in the preamble of the rule are incorrect. First, psychologists do not necessarily receive extensive training in their doctoral programs in projective techniques. Doctoral programs generally require 90-100 semester hours. A survey of five Texas programs revealed that only 3-6 semester hours in projective techniques are offered. Only clinical and counseling psychologists were indicated as taking these courses. Psychologists in other majors, such as social, experimental, or general psychology, were not included. Only a minority of psychologists are required to take courses in projective techniques.

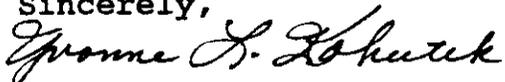
Second, there will be a measurable effect on state and local government, small businesses, and individuals in other mental health fields. Licensed professional counselors currently use projective techniques in their practice. Licensed professional counselors, art therapists, and others in private practice will lose part of their practice if they can not use projective techniques; counselors working for mental health authorities and governmental agencies will be unable to perform all of their assigned duties; and mental health authorities and governmental agencies would be compelled to employ or contract with psychologists in order to have the psychologist perform the necessary projective techniques on clients of the agencies and authorities.

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Because of the defects in the preamble of the proposed rule, the rule will not stand scrutiny under Methodist Hospitals V. Industrial Accident Board, 798 S.W. 2d 651 (Tex. App. - Austin 1990, writ dism. w.o.j.).

If you have any questions, please feel free to contact Linda Wiegman, Attorney for the Professional Counselors Board at (512) 458-7236.

Sincerely,



Yvonne Kohutek
Chairperson

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