Dear Ms. Bizzell:

You ask about one of the exemptions from licensing and certification requirements under article 4512c, V.T.C.S., the Psychologists' Certification and Licensing Act.

Section 20 of the act provides:

After December 31, 1970, no person shall represent himself as a psychologist or psychological associate within the meaning of this Act unless he is certified and registered under the provisions of this Act.

Section 21 provides for the licensure of persons who offer psychological services for compensation. Section 22 provides that "[n]othing in this Act shall be construed to apply to"

(a) the activities, services and use of official title on the part of a person employed as a psychologist by any: (1) governmental agency, (2) public school district, or (3) regionally accredited institution of higher education provided such employee is performing those duties for which he is employed by such agency, district, or institution and within the confines of such agency, district, or institution insofar as
such activities and services are a part of
the duties of his office or position as a
psychologist with such agency, district, or
institution; except that persons employed as
psychologists who offer or provide psycholog-
ical services to the public (other than
lecture services) for a fee, monetary or
otherwise, over and above the salary that
they receive for the performance of their
regular duties, and/or persons employed as
psychologists by organizations that sell
psychological services to the public (other
than lecture services) for a fee, monetary or
otherwise must be licensed under the provi-
sions of this Act.

See also V.T.C.S. art. 4512c, § 22(b) (exception for stu-
dents, interns, and residents in psychology), (c) (exception
for services of other professionals, Christian Science
practitioners, and other religious practitioners), (d) (cer-
tain marriage and family counselors); see generally Attorney
General Opinion H-930 (1977) (whether person contracting to
provide psychological services to school district is within
exemption). The Board of Examiners of Psychologists is
prohibited from enacting rules that govern the "activities,
services, or training" of a person who is exempt from the
act's provisions under section 22.

Because section 22 states that "[n]othing in this Act"
shall apply to the persons described, you ask whether the
Board of Examiners of Psychologists has "legal jurisdiction
over" persons who fit the description set out in section
22(a) but who have nonetheless obtained certification or
licensure.

If the phrase "[n]othing in this Act shall be construed
to apply" is taken absolutely literally, persons described
in the exemptions set out in section 22 would be ineligible
for certification or licensure under article 4512c. We do
not think, however, that the purpose of section 22 is to
make certain individuals ineligible for certification and
licensure. Rather, we think that the plain purpose of the
exemption set out in section 22(a) is to allow persons to
engage in certain types of employment without a certificate
or license issued under article 4512c. If such persons do,
however, seek licensure or certification, we think they
submit to all of the act's provisions. Consequently, we
think it is clear that a person who chooses to seek certifi-
cation or licensure, even if he would be exempt under
section 22(a), would be subject to the board's rules

p. 6646
regarding that person's activities, services, or training to the extent that they are qualifications for certification or licensure. Once a person is certified or licensed, we think it is within the authority of the Board of Examiners of Psychologists to cancel, revoke, suspend, or refuse to renew that certification or license for any of the reasons the board may take such action in regard to certificates and licenses generally. See V.T.C.S. art. 4512c, §§ 23, 24A. Similarly, we think any person who chooses to seek licensure or certification is subject to the fees imposed by section 16A of article 4512c.

**SUMMARY**

A person who is certified or licensed under article 4512c is subject to the provisions of that act, even if that person holds employment that would exempt him or her from the licensing and certification requirements of the act.

Very truly yours,

JIM MATTOX
Attorney General of Texas

MARY KELLER
First Assistant Attorney General

LOU MCCREARY
Executive Assistant Attorney General

JUDGE ZOLLIE STEAKLEY
Special Assistant Attorney General

RENEA HICKS
Special Assistant Attorney General

RICK GILPIN
Chairman, Opinion Committee

Prepared by Sarah Woelk
Assistant Attorney General