

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

EXECUTIVE DIRECTOR
Darrel D. Spinks



MEMBERS OF THE COUNCIL

Gloria Z. Canseco, M.A., Chair

Dr.h.c. Sarah Abraham
John K. Bielamowicz
Timothy M. Brown, M.S.W.
Steve Christopherson, M.S.
Susan Fletcher, Ph.D.
George Francis, IV
Benny Morris
Jennifer Smothermon, M.A.

Texas Behavioral Health Executive Council Meeting Agenda June 16, 2020, 9am

Due to Governor Greg Abbott's March 13, 2020 proclamation of a state of disaster affecting all counties in Texas due to the Coronavirus (COVID-19) and the Governor's March 16, 2020 suspension of certain provisions of the Texas Open Meetings Act, the June 16, 2020 meeting of the Texas Behavioral Health Executive Council will be held by videoconference call, as authorized under Texas Government Code section 551.127. There will be no physical meeting location open to the public so long as the disaster declaration is in effect.

Members of the public will have access and a means to participate in this meeting, by two-way communication, by entering the URL address <https://us02web.zoom.us/j/88626094624> into their web browser or by calling (346) 248-7799 and entering the webinar/meeting ID 886 2609 4624. Additional telephone numbers and videoconference call access information can be found in the attached addendum. An electronic copy of the agenda and meeting materials will be made available at www.tsbep.texas.gov prior to the meeting. A recording of the meeting will be available after June 16th. To obtain a recording, please contact Brenda Skiff, at Open.Records@tsbep.texas.gov.

For public participants, once the public comment item is reached on the agenda after the meeting convenes, the presiding officer will ask those joining by computer to use the "raise hand" feature to indicate who would like to make a public comment. Those individuals who raise their hand will then be unmuted to give public comment. Once all of the individuals with raised hands have been given an opportunity to make public comment, the individuals appearing by telephone will be unmuted and asked whether they would like to make a public comment. When making a public comment, please identify yourself and whether you are speaking individually or on behalf of an organization. All public comments will be limited to 3 minutes, unless otherwise directed by the presiding officer. In lieu of providing public comment during the meeting, you may submit written public comments via email to Executive.Director@tsbep.texas.gov in advance of the meeting. The written public comments received will be then be submitted to the council members for their consideration during the meeting.

In the event Governor Greg Abbott's March 13, 2020 disaster declaration is not renewed or expires prior to June 16th, then pursuant to Tex. Gov't Code Ann. §551.127, notice is hereby given that one or more Council members may appear at the scheduled meeting via videoconference call, but the presiding officer will be physically present at 333 Guadalupe St., Ste. 2-450E, Austin, Texas 78701. This location will be open to the public only in the event the March 13th disaster declaration is not renewed.

Please note that the Council may request input during the meeting from any interested parties or members of the public during its discussion of an agenda item.

If you are planning to attend this meeting and need auxiliary aids, services or materials in an alternate format, please contact the Council at least 5 working days before the meeting date. Phone: (512) 305-7700,

FAX: (512) 305-7701, E-MAIL: Executive.Director@tsbep.texas.gov, TTY/RELAY TEXAS: 711 or 1-800-RELAY TX.

The Council may go into Executive Session to deliberate any item listed on this agenda if authorized under Texas Open Meetings Act, Government Code, Ch. 551.

The Council may discuss and take action concerning any matter on the agenda and in a different order from what it appears herein.

NOTES:

- There may be a quorum of the members from each of the following boards present at the Texas Behavioral Health Executive Council meeting: the Texas State Board of Examiners of Psychologists; the Texas State Board of Social Worker Examiners; the Texas State Board of Examiners of Marriage and Family Therapists; and the Texas State Board of Examiners of Professional Counselors.

Council Meeting Agenda for June 16, 2020 at 9:00am

1. Call to Order
2. Roll Call and Certification of Quorum
3. Public Comments – Public Comment is limited to three (3) minutes per person, unless otherwise directed by the presiding officer.
4. Review and approval of minutes from prior meeting(s).
5. Review and approval of Strategic Plan for 2021-2025.
6. Review sample status reports on complaints and discuss standardization of those reports.
7. Report from Executive Director:
 - a. Update on agency operations and the transition plan tasks completed or in-progress by Incubation Taskforce members and agency staff.
 - b. Status reports on application processing times.
 - c. Letter from Governor Abbott, et al, dated May 20, 2020, requesting agency plan for 5% budget cuts for the current biennium, together with the agency's response.
8. Rulemaking:
 - a. Review of public comments received and changes suggested to the Council's proposed rules by the Office of the Governor, Budget and Policy Division; Adoption of Council proposed rules under 22 TAC Chapters 881 – 885, related to general provisions, applications and licensing, renewals, complaints and enforcement, and fees.
 - b. Proposed change to fee chart found in Council proposed rule 22 TAC §885.1.
 - c. Review and proposal of rule changes to 22 TAC, Part 30, Chapter 681, Texas State Board of Examiners of Professional Counselors rules.
 - d. Review and proposal of rule changes to 22 TAC, Part 21, Texas State Board of Examiners of Psychologists rules.

- e. Review and proposal of rule changes to 22 TAC, Part 34, Chapter 781, Texas State Board of Social Worker Examiners rules.
 - f. Review and proposal of rule changes to 22 TAC, Part 35, Chapter 801, Texas State Board of Examiners of Marriage and Family Therapists rules.
9. Review methodology for calculating fees; discussion regarding establishment of ad hoc committee to study possible changes to Council fees.
 10. Discussion concerning the potential impact the COVID-19 pandemic and potential budget cuts may have on future council and board meetings.
 11. Report from Member Boards regarding current or future issues that may impact the profession or the agency's regulatory functions.
 12. Recommendations for agenda items for the next Council meeting
 13. Adjournment

Addendum: Additional Videoconference and Telephone Conference Call Information

Texas Behavioral Health Executive Council June 16, 2020 Meeting

When: Jun 16, 2020 09:00 AM Central Time (US and Canada)

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/88626094624>

Or iPhone one-tap :

US: +13462487799,,88626094624# or +12532158782,,88626094624#

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 253 215 8782 or +1 669 900 6833 or +1 929 436 2866 or +1 301 715 8592 or +1 312 626 6799

Webinar ID: 886 2609 4624

International numbers available: <https://us02web.zoom.us/j/kd3Qcl5sZK>

**TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL MEETING
SUMMARY OF MINUTES
MARCH 2, 2020**

Chair Gloria Canseco called the meeting of the Texas Behavioral Health Executive Council to order at 9:04 a.m.

Chair Gloria Canseco moved to item 2, Roll Call and Certification of Quorum. Chair Gloria Canseco and Council members John Bielamowicz, Timothy Brown, Steve Christopherson, Dr. Susan Fletcher, George Francis, and Jennifer Smothermon were present. Council members Sarah Abraham and Megan Graham were absent. A quorum was seated.

Chair Gloria Canseco moved to item 3, Public Comments. The Council heard public comment from Alyssa Karsagi.

Chair Gloria Canseco moved to item 4, Review and approval of minutes from prior meetings, which were held on January 14, 2020 and February 4, 2020. Council member George Francis, seconded by Steve Christopherson, made a motion to accept the minutes of both meetings as presented. Motion passed by unanimous vote.

Chair Gloria Canseco moved to item 5, Management action status updates from the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas State Board of Social Worker Examiners in response to the Sunset Commission report. There were no actions to report, and this agenda item will be removed from future agendas as all requirements have been met.

Chair Gloria Canseco moved to item 6, Discussion regarding allowing Executive Director to serve as the part-time Executive Director for the Texas State Board of Examiners of Psychologists through August 31, 2020; Entry of agency finding regarding dual office holding by Director. Council member Tim Brown, seconded by Steve Christopherson, made a motion to allow Texas Behavioral Health Executive Council Executive Director Darrel Spinks to serve as part-time Executive Director of the Texas State Board of Examiners of Psychologists until August 31, 2020, if asked. A roll call vote was taken. Council members John Bielamowicz, Timothy Brown, Steve Christopherson, Dr. Susan Fletcher, and Jennifer Smothermon were in favor, and Chair Gloria Canseco and Council member George Francis were opposed. The motion passed.

Chair Gloria Canseco moved to item 7, Report from Executive Director on:

- a. The transition plan tasks completed or in-progress by Incubation Taskforce members and agency staff.
- b. Report on Instructions for Preparing and Submitting Agency Strategic Plan for FY2021-2025; Discussion concerning whether to form an ad hoc committee to assist with strategic planning.
- c. Request for authority for Chair and Executive Director to sign and submit the Strategic Plan on or before deadline of June 1, 2020.
- d. Progress of survey of stakeholders for 2021-2025 Strategic Plan.
- e. Review of draft agency record retention schedule.
- f. Review or discuss sample agency website.

Executive Director Darrel Spinks provided a report on the transition plan, postings of certain key positions, and upcoming postings. Mr. Spinks has been in discussions with the Facilities Commission regarding office space, and the Department of Information Resources regarding file server storage and security. Mr. Spinks reported that the database user acceptance testing will begin late May or early June of this year; provided an update on obtaining an ORI number for fingerprint background checks; provided and explained a draft of the proposed website; and provided an update on the licensing data base. Council member George Francis requested an updated transition plan with tasks, dates, and responsible persons at the next meeting. Mr. Spinks shared the Strategic Planning timeline and response schedule, and provided an update on the stakeholder responses received. Council members George Francis, Gloria Canseco, Dr. Susan Fletcher, and Steve Christopherson formed a Strategic Planning Committee. The Council will review and approve the Strategic Plan at the next meeting on June 16, 2020. Staff will send a letter by June 1, 2020, letting the Legislative Budget Board know that the Council will vote on the Strategic Plan at the June 16, 2020, Council meeting. The Council reviewed the Records Retention Schedule, which was the schedule used by the Texas State Board of Examiners of Psychologists. Council member George Francis recommended reducing the retentions to the minimum requirements. Mr. Spinks indicated that a further review would be conducted to determine the appropriate standards for retention of enforcement orders.

Chair Gloria Canseco moved to items 8 and 9, Report from agency staff on estimated additional costs for council and board meetings held outside of Austin, Texas. Discussion concerning whether to hold council and board meetings outside of Austin, Texas and the ancillary budget implications of such meetings. Discussion concerning whether to allow travel by Council and board members, or agency staff, for agency related business separate and apart from meetings. Mr. Spinks discussed the costs of conducting meetings outside the Austin area. Council members discussed and agreed to hold non-quorum town hall meetings throughout the state.

Chair Gloria Canseco moved to item 10, Discussion concerning agency performance measures and definitions. Council member Steve Christopherson, seconded by George Francis, made a motion to approve the agency performance measures and definitions. Motion passed by unanimous vote.

Chair Gloria Canseco moved to item 11, Review and proposal of draft rules related to general provisions, applications and licensing, renewals, complaints and enforcement, and fees. The Council heard public comments from Will Francis, Jeanene Smith, Jan Friese, Jessica Magee, and Cassandra Hulsey. The Council discussed the requirements for setting fees and options to lower fees.

Executive Director Darrel Spinks outlined the General Provisions Rules and proposed changes. Council Member Dr. Susan Fletcher, seconded by John Bielasowicz, made a motion to accept the General Provision Rules with the agreed upon changes at §§881.11(d), 881.20(e)(1), 881.30(d), adding definitions to §881.2, and general cleanup throughout. Motion passed by unanimous vote.

Executive Director Spinks outlined the Applications and Licensing Rules. Council members discussed the licensing processing time of 90 days or less to explore options of 60 to 30 days. Council member Tim Brown, seconded by John Bielasowicz, made a motion to keep the licensing process time at 90 days. Motion passed with Council members John Bielasowicz, Timothy Brown, Steve Christopherson, Dr. Susan Fletcher, and Jennifer Smothermon voting in favor. Chair Gloria Canseco was opposed, and Council member George Francis abstained. Council member

Jennifer Smothermon, seconded by George Francis, made a motion to propose the Applications and Licensing Rules with changes discussed. Motion passed by unanimous vote.

Executive Director Spinks had no recommended changes to the Renewal Rules. Council member Dr. Susan Fletcher, seconded by Steve Christopherson, made a motion to recommend the rules as presented. Motion passed by unanimous vote.

Executive Director Spinks outlined changes to the Complaints and Enforcement Rules. Council member Jennifer Smothermon, seconded by George Francis, made a motion to set the time limits to file a complaint of sexual misconduct under §884.1(b) to seven years from date of service or five years past the age of majority, whichever is greater. Motion passed by unanimous vote. Mr. Spinks outlined rules at §§884.10(k), 884.11(b) and (f) regarding the disposal of informal conferences at the staff level. Council member Jennifer Smothermon, seconded by George Francis, made a motion to adopt language proposed at §884.10(k) (option 2) allowing staff to conduct and dispose of informal cases for faster processing. Motion passed by unanimous vote. Council member George Francis, seconded by Jennifer Smothermon, made a motion to recommend the change to §884.11(a). Motion passed by unanimous vote. Council member Steve Christopherson, seconded by Timothy Brown, made a motion to accept the changes §884.11(b) and (e)(1) as presented. Motion passed by unanimous vote. Council member Dr. Susan Fletcher, seconded by Jennifer Smothermon, made a motion to amend language under §884.11(h) regarding recording in an informal settlement conference. Motion passed by unanimous vote. The Council discussed a public comment regarding limiting the scope of investigations and providing notice of all complaints against a respondent. Council member John Bielamowicz, seconded by Steve Christopherson, made a motion to amend §884.10(h) to read: Licensees will receive written notice of any complaint(s) including specific information regarding any violation encountered. Motion passed by unanimous vote. The Council amended §884.20(a)(1) to add a reference to “the applicable schedule of sanctions” in order to recognize the individual boards’ schedule of sanctions. The Council made technical corrections to §884.41. Council member George Francis, seconded by Dr. Susan Fletcher, made a motion to amend §884.40(b)(1) to state that each temporary suspension panel must have at least one member from the same profession as the respondent and a majority of members from the same board as the respondent. Motion passed by unanimous vote. Council member Jennifer Smothermon, seconded by George Francis, made a motion to approve the Complaint and Enforcement rules with the recommended changes. Motion passed by unanimous vote. Council member Jennifer Smothermon, seconded by George Francis, made a motion to adjust the language in §884.50(b)(1) to align with the suspension panel make-up under §884.40(b)(1). Motion passed by unanimous vote.

Executive Director Spinks outlined the Fees Rules. The Council discussed the fee amounts and the formulation of the proposed fees. Council member George Francis, seconded by Dr. Susan Fletcher, made a motion to publish the Fee Rules as recommended. Motion passed by unanimous vote. The Strategic Planning Committee will review the basis for the fees.

Chair Gloria Canseco moved to item 12, Report from Member Boards regarding current or future issues that may impact the profession or the agency’s regulatory functions.

- Texas State Board of Examiners of Professional Counselors met on February 7, 2020, and is working on clean-up to rules.
- Texas State Board of Examiners of Marriage and Family Therapists met in January 2020 and will meeting again in April 2020 to review rules.

- Texas State Board of Examiners of Psychologists met in February 2020, for rules review.
- Texas State Board of Social Worker Examiners has an upcoming meeting March 6-7, 2020, to discuss Board member attendance and rule clean-up.

Chair Gloria Canseco moved to item 13, Recommendations for agenda items for the next Council meeting. The Council requested the following items be added to the agenda for the June 16, 2020 meeting: performance measures on applications and average processing time; fee background information; and status of investigations.

Chair Gloria Canseco moved to item 14, Adjournment. Chair Canseco adjourned the meeting at 3:31 p.m.

Gloria Canseco, Presiding Officer
Texas Behavioral Health Executive Council



Strategic Plan
Fiscal Years 2021 to 2025
by

The Texas Behavioral Health Executive Council

Board Member Name	Dates of Term	Hometown
Gloria Canseco, M.A., Chair	9/1/19 – 2/1/25	San Antonio
Dr.h.c. Sarah Abraham	9/1/19 – 2/1/21	Sugarland
John K. Bielamowicz	9/1/19 – 2/1/22	Waxahachie
Timothy M. Brown, M.S.W.	9/1/19 – 2/1/21	Dallas
Steve Christopherson, M.S.	9/1/19 – 2/1/22	Pasadena
Susan Fletcher, Ph.D.	9/1/19 – 2/1/21	Frisco
George Francis, IV	9/1/19 – 2/1/21	Georgetown
Benny Morris	3/7/20 – 2/1/22	Cleburne
Jennifer Smothermon, M.A.	9/1/19 – 2/1/22	Abilene

June 16, 2020

Signed by:

Approved by:

Darrel D. Spinks, Executive Director

Gloria Canseco, Presiding Officer

Table of Contents

Strategic Plan	1
Agency Mission	1
Agency Philosophy	1
Agency Goals and Action Plan	2
Operational Goal #1: Develop and Maintain an Efficient Licensing Process	2
Specific Action Items Necessary in Achieving Goal.....	2
Description of How Goal Supports Statewide Objectives	3
Other Relevant Considerations	4
Operational Goal #2: Develop and Maintain an Efficient Enforcement Process	7
Specific Action Items Necessary in Achieving Goal.....	7
Description of How Goal Supports Statewide Objectives	7
Operational Goal #3: Providing Information in a Timely and Efficient Manner	8
Specific Action Items Necessary in Achieving Goal.....	9
Description of How Goal Supports Statewide Objectives	9
Redundancies and Impediments	10
Supplemental Schedules	13

Strategic Plan

Agency Mission

The mission of the Texas Behavioral Health Executive Council (“Council”) is to protect and promote the welfare of the people of Texas by ensuring that behavioral health services and social work practice are provided by qualified and competent practitioners who adhere to established professional standards. This mission is derived from the duly enacted statutes governing each regulated profession, as well as the law creating the Council, and supersedes the interest of any individual or special interest group.

Agency Philosophy

Acting in accordance with the highest standards of ethics, accountability, efficiency, and openness, the Council approaches its mission with a deep sense of purpose and responsibility, and affirms that the regulation of behavioral health services and social work practice is a public trust. The Council assumes a proactive leadership role in this regard and pledges to carry out its mission in an efficient, innovative, collaborative, and equitable manner.

The following are the key functions utilized by the Council to carry out its mission and philosophy:

1. Licensing. Establishing educational, experience, and examination requirements for licensure, and requiring renewal of licensure with an appropriate amount of continuing education.
2. Enforcement. Establishing professional standards for the practice of marriage and family therapy, professional counseling, psychology, and social work, as well as investigating and enforcing compliance with the requirements of the various laws affecting each profession in Texas.
3. Providing Information. Serving as a source of information to the public, the profession, and governmental entities, as well as adhering to all mandated reporting requirements under state and federal law.

Agency Goals and Action Plan

Operational Goal #1: Develop and Maintain an Efficient Licensing Process

The primary operational goal of this new agency is to establish and maintain educational, experience, and examination requirements for licensure and require biennial renewal of licensure with an appropriate amount of continuing education in accordance with the best practices suggested by the professions.

The objective behind this goal is to protect the public by maintaining a quality program of examination and licensure to ensure the initial and continuing professional character and competence of providers within the mental health professions regulated by the agency.

Specific Action Items Necessary in Achieving Goal

Encourage Employee Engagement, Innovation, and Retention. The efficiency and effectiveness of an agency can be determined to a large extent by the individuals employed and the work environment within the agency. Employees who are engaged have an investment in the organization and are willing to contribute towards making improvements where possible. Furthermore, an appropriate work environment should not only encourage engagement and innovation, but also ensure a safe, non-harassing environment with ethical abiding employees who treat each other with fairness and respect. Both of these factors are key to ensuring the Council is able to carry out its operational goal of developing and maintaining an efficient licensing process.

To that end, the Council is in the process of hiring employees willing to not only meet the challenge of working in a new state agency, but to take an active role and interest in the growth of the Council into a well-established and successful agency. The Council is also in the process of developing its personnel policies and procedures to ensure a work environment that is both safe and fosters innovation and efficiency.

The Council intends to have the hiring process and development of its personnel policies and procedures complete on or before September 1, 2020. Once the hiring process and development of personnel policies and procedures is complete, it will be incumbent upon agency leadership to continue with proactive management and ongoing communication with the employees to ensure continued success.

Continue Reviewing and Refining Rules to Achieve Maximum Efficiency. The Council commits to continuing to explore possible rule changes needed to ensure administrative consistency, address good governance concerns, and guard against anticompetitive impacts to the marketplace. In doing so, the Council and its member boards can thereby give greater effect to both the express intent and spirit behind H.B. 1501 (86th Legislature) and Sunset management actions, while also achieving greater administrative efficiency and reduction in costs to both the state, applicants, and licensees.

Expanded Use of Technology Solutions. Public sector organizations generally look to IT to provide value as a foundational business component of providing quality services to the

citizens they serve and the employees they support. Managing IT within state government requires balancing traditional daily operations, citizen expectations, efficiency measures, and security against budget constraints. In a constantly changing technology environment, agencies have to be cost efficient, yet innovative; measured, yet responsive; operational, yet visionary.

The Council recognizes that it must adapt planning and governance processes to the emerging world of 24/7 access to government to meet the needs of our mobile citizenry and intends to take advantage of advancements in technology, programming, and third-party services, wherever feasible, to provide the public with improved responsiveness and accessibility.

By way of example, the Council has proposed rules requiring all license renewals go through its online licensing system and anticipates these rules will become effective September 1, 2020; the Council will no longer accept paper-renewal forms after September 1, 2020. Furthermore, the Council intends to migrate its file servers and domain controllers to the state data center effective September 1st, rather than maintaining physical or virtual servers in-house. This transition, together the management of the Council's database by the Health Professions Council, will provide enhanced IT security for the Council's data and IT functions. Lastly, the Council is developing its website to provide licensees, applicants, and members of the public alike, with helpful and concise information regarding licensure, complaints, council and board information, forms and publications, public information, as well as links to the relevant laws.

While the Council intends to launch its website on or before June 16, 2020, the Council also recognizes the ongoing need to continually adapt and enhance the information and services accessible through the website. As a result, the Council commits to continually review and update its website to ensure up-to-date information, transparency, and excellent customer service.

Purchasing and Contract Management Training. The Council, having entered into or in anticipation of entering into contracts with other state agencies, has required the employee(s) serving as contract managers for the agency, to undergo the purchasing and contract management training required by Chapter 656 of the Government Code. The Council's Chief Financial Officer has taken the *Basic Public Purchaser* course and the *Contract Developer* course and is now a Certified Texas Contract Developer.

Description of How Goal Supports Statewide Objectives

The Council's licensing function supports each of the following statewide objectives:

1. Accountable to tax and fee payers of Texas.
2. Efficient by producing maximum results with no waste of taxpayer funds and by identifying any function or provision considered redundant or not cost-effective.
3. Effective by successfully fulfilling core functions, achieving performance measures, and implementing plans to continuously improve.
4. Attentive to providing excellent customer service.

5. Transparent such that agency actions can be understood by any Texan.

First and foremost, the Council's licensing functions are accountable to the tax and fee payers of Texas not only through the biennial legislative process, but also by virtue of the accessible nature of agency officials and staff, the Sunset Review Process, the rule review processes mandated by Sections 2001.032 and .039 of the Government Code, the right to petition for rulemaking, the Council's unique rulemaking process, and the right to seek review of a denial of licensure at SOAH. The Council also remains accountable by virtue of an individual's right to petition both state and federal courts for any relief allowed under law.

Second, the Council achieves maximum results in its licensing function while maintaining quantifiable accountability and no waste of taxpayer funds through the performance measures below:

Outcome Measures:

- Percent of Licensees with No Recent Violations

Output Measures:

- Number of New Licenses Issued to Individuals
- Number of Licenses Renewed (Individuals)

Efficiency Measures:

- Average Time to Process Applications

Explanatory Measures:

- Total Number of Individuals Licensed

Third, the Council continually looks for ways to improve efficiencies within its licensing function. By way of example, the Council has transitioned its licensees to online renewals and minimizes costs taxpayers by adopting paperless operations wherever feasible.

Lastly, the Council provides clear direction in its rules, website, and application materials for individuals seeking licensure and members of the general public. A good measure of the Council's transparency and customer service can also be found in its reports on customer service once they are published.

Other Relevant Considerations

Texas, the second most populous state, was among the nation's fastest-growing states between 2000 and 2010, with an estimated increase of over 15% as reported by the U.S. Census Bureau. Between 2020 and 2027, the resident population of Texas is projected to increase by a staggering 10.5%.

According to the *2017-2022 Texas State Health Plan* published by the Statewide Health Coordinating Council (SHCC):

Nationally, 46.4% of adults experience mental illness in their lifetime and 26.2% of adults experience mental illness annually. On an annual basis, 5.8% of adults in the US experience a serious mental illness (Hogg Foundation for Mental Health, 2011). Moreover, the aging of the US population requires behavioral health services with special knowledge and skills (Hoge, Stuart, Morris, Flaherty, Paris, & Goplerud, 2013).

The plan goes on to say that:

Nationwide, 39 percent of persons with mental illness and 10.8 percent of persons with substance abuse issues receive the mental health treatment they need (Hoge, et al., 2013). A national study conducted by the Center for Studying Health System Change found that 66.8 percent of primary care physicians were unable to refer their patients to high quality mental health specialists. This is a far higher rate of unavailability than those seen for other specialty referrals, nonemergency hospital admissions, or high quality imaging services (between 17 percent and 34 percent). The study attributed unavailability to either inadequate health insurance coverage or a shortage of mental health providers (Cunningham, 2009).

Workforce-based explanations for a lack of mental health and substance abuse providers at-large generally focus on insufficient numbers of mental health providers, high turnover (a national average of 18.5 percent annually), low compensation, minimal diversity, and the need for accelerated adoption of new evidence-based treatments (Hoge, et al., 2013).

While it is difficult to accurately estimate the number of people who receive behavioral health services in this state due to confidentiality laws, we do know that licensees of this Council provide services to individuals in many venues, including public schools, private practice, organizational settings, court proceedings, as well as in many governmental facilities.

We also know that despite the following increases in licensee numbers, Texas still has fewer behavioral health providers than the national average:¹

Licensed Professional Counselors:

- 34.8% increase since 2010 and a 95.2% increase since 2005

Licensed Marriage and Family Therapists:

- 12.9% increase since 2010 and a 15.2% increase since 2005

Licensed Psychologists and Specialist in School Psychology:

- 13.8% increase since 2010 and a 95.2% increase since 2005

¹ Health Professions Resource Center, Trends, Distribution, and Demographics of Selected Health Professions in Texas, 2015

- 16.5% increase since 2010 and a 33.6% increase since 2005

Licensed Social Workers and Clinical Social Workers:

- 28.6% increase since 2010 and a 39.1% increase since 2005
- 29.2% increase since 2010 and a 62.9% increase since 2004

Furthermore, according to the U.S. Department of Labor, Bureau of Labor Statistics, employment of behavioral health providers is expected to be much faster than the average for all occupations through 2028.

Licensed Professional Counselors:

Employment of substance abuse, behavioral disorder, and mental health counselors is projected to grow 22 percent from 2018 to 2028, much faster than the average for all occupations. Employment growth is expected as people continue to seek addiction and mental health counseling.²

Licensed Marriage and Family Therapists:

Employment of marriage and family therapists is projected to grow 22 percent from 2018 to 2028, much faster than the average for all occupations. Growth is expected due to an increasing use of teams for treatment, in which these therapists work with other counselors to address patients' needs.³

Licensed Psychologists:

Employment of psychologists is projected to grow 14 percent from 2018 to 2028, much faster than the average for all occupations. Job prospects should be best for those who have a doctoral degree in an applied specialty.⁴

Licensed Social Workers and Clinical Social Workers:

Overall employment of social workers is projected to grow 11 percent from 2018 to 2028, much faster than the average for all occupations. Employment growth will be driven by increased demand for healthcare and social services, but will vary by specialization.⁵

Thus, while the number of providers licensed by this agency has increased steadily over the years, and is expected to continue growing according to federal government projections, demand is also expected to continue exceeding supply.

² Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Substance Abuse, Behavioral Disorder, and Mental Health Counselors, on the Internet at <https://www.bls.gov/ooh/community-and-social-service/substance-abuse-behavioral-disorder-and-mental-health-counselors.htm> (visited May 30, 2020).

³ Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Marriage and Family Therapists, on the Internet at <https://www.bls.gov/ooh/community-and-social-service/marriage-and-family-therapists.htm> (visited May 30, 2020).

⁴ Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Psychologists, on the Internet at <https://www.bls.gov/ooh/life-physical-and-social-science/psychologists.htm> (visited May 30, 2020).

⁵ Bureau of Labor Statistics, U.S. Department of Labor, *Occupational Outlook Handbook*, Social Workers, on the Internet at <https://www.bls.gov/ooh/community-and-social-service/social-workers.htm> (visited May 30, 2020).

Though the Council’s mission emphasizes public safety through establishing appropriate licensing standards, together with oversight and discipline of incompetent or unsafe practitioners, the Council maintains a vigilant watch over the dynamic and changing landscape of behavioral health care, and is aware of the serious shortage of mental health care providers in this state. And while the Council is ill-equipped or unable to remediate this provider shortage on its own, it will continue working to identify steps to increase efficiencies in the licensure process and increase the number of newly licensed providers available to the citizenry.

Operational Goal #2: Develop and Maintain an Efficient Enforcement Process

A second, yet equally important operational goal of the Council is enforcement of the standards for the ethical practice of marriage and family therapy, counseling, psychology, and social work, as well as the enforcement of related laws governing the delivery of behavioral health services in Texas.

The objective behind this goal is to protect the public by investigating complaints and monitoring compliance with the various laws governing the practice of marriage and family therapy, counseling, psychology, and social work in Texas, and taking action to limit, restrict, or revoke the authority to practice those disciplines if it is determined that a licensee poses a danger to the public.

Specific Action Items Necessary in Achieving Goal

For purposes of brevity and to avoid undue repetition, the Council hereby incorporates by reference, as if set forth verbatim herein, its action items found under Operational Goal #1.

Description of How Goal Supports Statewide Objectives

The Council’s enforcement function supports each of the following statewide objectives:

1. Accountable to tax and fee payers of Texas.
2. Efficient by producing maximum results with no waste of taxpayer funds and by identifying any function or provision considered redundant or not cost-effective.
3. Effective by successfully fulfilling core functions, achieving performance measures, and implementing plans to continuously improve.
4. Attentive to providing excellent customer service.
5. Transparent such that agency actions can be understood by any Texan.

First and foremost, the Council’s enforcement functions are accountable to the tax and fee payers of Texas not only through the biennial legislative process, but also by virtue of the accessible nature of agency officials and staff, Sunset Review Process, the rule review processes mandated by Sections 2001.032 and .039 of the Government Code, the right to petition for rulemaking, the Council’s unique rulemaking process, the right to a public hearing at SOAH in a contested case, and the right to seek review by a state court of any

sanction imposed by the Council. The Council also remains accountable by virtue of an individual's right to petition both state and federal courts for any relief allowed under law.

Second, the Council achieves maximum results in its enforcement function while maintaining quantifiable accountability and no waste of taxpayer funds through the performance measures below:

Outcome Measures:

- Percent of Complaints Resulting in Disciplinary Action
- Recidivism Rate for Those Receiving Disciplinary Action
- Percent of Complaints Resolved within Six Months

Output Measures:

- Number of Complaints Resolved
- Number of Complaints Pending

Efficiency Measures:

- Average Time for Complaint Resolution

Explanatory Measures:

- Number of Jurisdictional Complaints Received

Third, the Council continually looks for ways to improve efficiencies within its enforcement function. By way of example, the Council has developed a standardized complaint process for use in investigations which is intended to also reduce the significant backlog of complaints pending against licensed professional counselors and social workers.

Lastly, the Council provides clear direction in its rules, website, and enforcement materials for individuals seeking to file or respond to a complaint. A good measure of the Council's transparency and customer service can also be found in its reports on customer service once they are published.

Operational Goal #3: Providing Information in a Timely and Efficient Manner

A third operational goal of this agency is providing information to the public, the profession, and governmental entities, as well as adhering to all mandated reporting requirements under state and federal law.

The objective behind this goal is to protect the public by serving as a resource for individuals or entities inquiring about the marriage and family therapy, counseling, psychology, or social work professions in general, as well as individual licensees. This objective also extends to providing information to lawmakers, officials, and other governmental entities when requested, to assist them in carrying out important governmental functions.

Specific Action Items Necessary in Achieving Goal

For purposes of brevity and to avoid undue repetition, the Council hereby incorporates by reference, as if set forth verbatim herein, its action items found under Operational Goal #1.

Description of How Goal Supports Statewide Objectives

The Council's information resource functions support each of the following statewide objectives:

1. Accountable to tax and fee payers of Texas.
2. Efficient by producing maximum results with no waste of taxpayer funds and by identifying any function or provision considered redundant or not cost-effective.
3. Effective by successfully fulfilling core functions, achieving performance measures, and implementing plans to continuously improve.
4. Attentive to providing excellent customer service.
5. Transparent such that agency actions can be understood by any Texan.

The Council's information resource functions are accountable to the tax and fee payers of Texas not only through the biennial legislative process, but also by virtue of the accessible nature of agency officials and staff, Sunset Review Process, the rule review processes mandated by Sections 2001.032 and .039 of the Government Code, and the Council's unique rulemaking process. Furthermore, Chapter 507 of the Occupations Code and the Public Information Act, as well as several other transparency laws applicable to the Council, grant broad access to virtually all agency records and information at rates established by the Office of the Attorney General. The Council also remains accountable by virtue of an individual's right to petition both state and federal courts for any relief allowed under law.

The Council provides clear direction in its rules and on its website about the information it maintains that is publicly available. A good measure of the Council's effectiveness in carrying out this operational goal can be found in its reports on customer service, and by reviewing the reports submitted by the Council to the [OAG Open Records Reporting Portal](#), the [NPDB](#), and the [Office of the Attorney General, HB300 Reporting Portal](#).

Redundancies and Impediments

The Council’s functions do not overlap or duplicate those of another state or federal agency, and no other agency stands equipped to regulate the professions of marriage and family therapy, professional counseling, psychology, or social work given the long standing history and institutional knowledge acquired by this agency through its member boards.

Services, Statutes, Rules, or Regulations which are Redundant or Impede Effectiveness/Efficiency	Description of how the Service, Statute, Rule or Regulation Results in Inefficient or Ineffective Agency Operations	Agency Recommendations for Modification or Elimination	Estimated Cost Savings or Other Benefit Associated with Recommended Change
Tex. Occ. Code Ann. §507.206(a)	This law does not include the Council’s General Counsel as one of the individuals who may issue a subpoena on behalf of the agency. This results in the General Counsel having to request issuance of a subpoena from the Executive Director or Council Chair, despite the General Counsel being better situated to understand the evidentiary needs in a case.	Amend Tex. Occ. Code Ann. §507.206(a) to include the Council’s General Counsel as one of the individuals who may issue a subpoena on behalf of the agency.	Attorneys already have authority to issue subpoenas in civil litigation pursuant to Tex. R. Civ. P. 176, and given that the Council’s General Counsel is trusted to render legal advice to the Council, it only seems reasonable to entrust that same individual with the power to issue a subpoena on behalf of the Council in disciplinary proceedings.
Tex. Health and Safety Code Ann. §611.0045(b)	HIPAA, 45 C.F.R. §164.524(a)(3)(i), sets forth a higher standard for withholding information from a patient than Tex. Health & Safety Code Ann. §611.0045(b). Pursuant to HIPAA, 45 C.F.R. §160.203, a state law which is contrary to HIPAA’s provisions is preempted, and according to the <i>Preemption Analysis of Texas Laws Relating to the Privacy of Health</i>	The Council believes that Section 611.0045(b) of the Health and Safety Code should be amended to reflect the standard for withholding records under HIPAA, 45 C.F.R. §164.524(a)(3)(i).	Such a change would bring state law into alignment with federal healthcare privacy laws, and avoid confusion by the public and healthcare providers in this state.

Services, Statutes, Rules, or Regulations which are Redundant or Impede Effectiveness/Efficiency	Description of how the Service, Statute, Rule or Regulation Results in Inefficient or Ineffective Agency Operations	Agency Recommendations for Modification or Elimination	Estimated Cost Savings or Other Benefit Associated with Recommended Change
	<p><i>Information & the Health Insurance Portability & Accountability Act & Privacy Rules (HIPAA)</i> (November 1, 2004) (Tex. Att’y Gen.), the standards for withholding patient information set forth in §611.0045(b) are preempted by federal law.</p> <p>The Council is concerned that the different standards set forth in state and federal law may serve to confuse licensees and the public when faced with situations where records are being withheld, or where a practitioner seeks to withhold records.</p>		
Open Meetings Act, Chapter 551, Government Code	During the COVID-19 disaster, state agencies successfully conducted important state business via teleconferencing that allowed them to make decisions, preserve public participation and do it at a lower cost than tradition in-person meetings.	Amend the Open Meetings Act in a manner similar to the temporary suspensions referenced in the OOG’s March 16, 2020 press release entitled “Governor’s Office Clears Path for Government Bodies to Meet Telephonically or by Videoconference During Coronavirus Disaster” so that telephone and video conference meeting options become routine for state agencies if they choose to exercise that option.	Such a change would maintain governmental transparency while preserving important open-meeting protections, increase public participation in meetings, reduce personal and economic burdens on board and council members by reducing time away from their families and jobs, and significantly decrease travel costs for agencies.
Section 501.411 of the Occupations Code.	The Council lacks clear or express authority to offer remedial plans (or other non-disciplinary dispositions) for	Expand Section 501.411 to include all license types under the Council’s jurisdiction	Such a change will solidify the Council’s use of non-disciplinary dispositions for individuals licensed

Services, Statutes, Rules, or Regulations which are Redundant or Impede Effectiveness/Efficiency	Description of how the Service, Statute, Rule or Regulation Results in Inefficient or Ineffective Agency Operations	Agency Recommendations for Modification or Elimination	Estimated Cost Savings or Other Benefit Associated with Recommended Change
	individuals licensed under Chapters 502, 503, and 505 of the Occupations Code.	and relocate the section to Chapter 507 of the Occupations Code.	under Chapters 502, 503, and 505 of the Occupations Code and ensure efficiency in the investigation and disposition of complaints involving low-level violations by first-time offenders.
Section 503.302(a)(4) of the Occupations Code	The statute expressly requires at least 3,000 hours of supervised experience in a counseling setting, but does not provide for a method for determining substantial equivalency. As a result, applicants who have less than 3,000 hours are required to obtain additional supervised experience, regardless of whether they have experience that is substantially equivalent, before they can become eligible for full licensure.	Amend Section 503.302(a)(4) to authorize the Council to accept training or experience that is, either in whole or in part, substantially equal to the requisite 3,000 hours.	Such a change will ensure those applicants who have training or experience that is, either in whole or in part, substantially equal to 3,000 hours of supervised experience, are not denied licensure, but rather able to provide much-needed counseling services to the public.

Supplemental Schedules⁶

Schedule A: Budget Structure

Schedule B: Performance Measure Definitions

Schedule C: Historically Underutilized Business Plan

Schedule F: Agency Workforce Plan

Schedule H: Report on Customer Service*

**The Texas Behavioral Health Executive Council has not yet assumed regulatory responsibility for the licensing, enforcement, and other related functions for each occupational licensing program assigned to it under H.B. 1501, 86th Legislature. As such, the Council has provided no services to its stakeholders which can be measured in accordance with Chapter 2114 of the Government Code. In lieu thereof, the Council has included the most recent customer service report from the Texas State Board of Examiners of Psychologists.*

⁶ Only those schedules applicable to the agency have been included in the appendix.

GOAL 1

LICENSURE

Protect Public through Quality Program of Licensure

To protect the public by maintaining a quality program of examination and licensure to ensure the initial and continuing competency of professionals practicing marriage and family therapy, counseling, psychology, and social work.

Objective 1 – Ensure Standards Met

Ensure Practitioners Meet Standards for Licensure

To ensure that all practitioners meet required competency standards for the practice of marriage and family therapy, counseling, psychology, and social work.

Strategy 1 - Licensing

Operate Quality Program of Licensure

Operate a quality licensure program through an efficient and cost effective program of licensure, including education, experience and examination requirements, continuing education requirements and renewal requirements.

Outcome Measures

- 1) Percent of Licensees with No Recent Violations (**Key Measure**)

Output Measures

- 1) Number of New Licenses Issued to Individuals (**Key Measure**)
- 2) Number of Licenses Renewed (Individuals) (**Key Measure**)

Efficiency Measures

- 1) Average Time to Process Applications

Explanatory Measures

- 1) Total Number of Individuals Licensed

Strategy 2 – Texas.gov

Texas.gov (Estimated and Non-transferable)

Provide for the processing of occupational license, registrations, or permit fees through Texas.gov. Estimated and non-transferable.

GOAL 2

ENFORCEMENT

Protect the Public through Enforcement of Laws & Rules

Protect the public through enforcement of the laws and rules governing the practice of marriage and family therapy, counseling, psychology, and social work in Texas, and to ensure swift, fair and effective disciplinary action for violators, including re-education and/or rehabilitation of those violators.

Objective 1 – Ensure Compliance

Ensure All Practitioners Comply with Established Laws and Rules

Ensure that all practitioners comply with established law and rules.

Strategy 1 - Enforcement

Operate a Quality Investigation/Enforcement Program

In response to complaints concerning the practice of marriage and family therapy, counseling, psychology, and social work, operate a quality investigation and enforcement program consistent with the due process laws of Texas, in a timely manner and with a focus during enforcement on rehabilitation of the provider.

Outcome Measures

- 1) Percent of Complaints Resolved Resulting in Disciplinary Action
- 2) Recidivism Rate for those Receiving Disciplinary Action
- 3) Percent of Documented Complaints Resolved Within Six Months (**Key Measure**)

Output Measures

- 1) Number of Complaints Resolved (**Key Measure**)
- 2) Number of Complaints Pending

Efficiency Measures

- 1) Average Time for Complaint Resolution (**Key Measure**)

Explanatory Measures

- 1) Jurisdictional Complaints Received (**Key Measure**)

GOAL 3

INDIRECT ADMINISTRATION

Objective 1

Indirect Administration

Strategy 1

Indirect Administration

GOAL 4

HISTORICALLY UNDERUTILIZED BUSINESS GOAL

The agency will establish and carry out a policy of government purchases encouraging inclusion of Historically Underutilized Businesses (HUBs).

Objective 1

To make a good faith effort to increase government purchases in HUB categories awarded annually in each fiscal year.

Strategy 1

Develop and implement a plan for increasing the use of HUBs.

Outcome Measure

- (1) Percent of total dollar value of commodities contracts awarded to HUBs.

Output Measures

- (1) Total Amount HUB Purchases
- (2) Total HUB Vendors Used

SCHEDULE B

Strategic Plan

Performance Measure Definitions

LICENSING STRATEGY

OUTCOME MEASURE

(1) Percent of Licensees with No Recent Violations

Short Definition: The percent of the total number of individuals holding a license at any point during the current reporting period or preceding two years, who have not incurred a violation within that same time period.

Purpose/Importance: Licensing individuals helps ensure that practitioners meet legal standards for professional education and practice which is a primary agency goal. This measure is important because it indicates how effectively the agency's activities deter violations of professional standards established by statute and rule.

Source/Collection of Data: This measure is calculated from reports generated from the agency's licensing/enforcement system by the Chief Financial Officer which show the names of the persons who have received disciplinary action from the Board for the past three years. The total number of licensees is obtained from the system at the end of the reporting period by the Chief Financial Officer.

Method of Calculation: The total number of individuals holding a license at any point during the current reporting period or preceding two years, who have *not* incurred a violation within that same time period divided by the total number of individuals currently licensed by the agency. The numerator for this measure is calculated by subtracting the total number of licensees with violations during the three-year period from the total number of licensees at the end of the reporting period. The denominator is the total number of licensees at the end of the reporting period. The result is multiplied by 100 to achieve a percentage.

Data Limitations: The agency has no control over the number of individuals who will incur violations in any given year. The agency has no control over the number of individuals who meet the requirements for licensure and or licensees who choose to renew their licenses each year.

Calculation Type: Non-cumulative.

New Measure: No

Desired Performance: Higher than target.

OUTPUT MEASURES

(1) Number of New Licenses Issued to Individuals

Short Definition: The number of licenses issued to individuals during the reporting period.

Purpose/Importance: A successful licensing structure must ensure that legal standards for professional education and practice are met prior to licensure. This measure is a

primary workload indicator which is intended to show the number of persons who were documented to have successfully met all licensure criteria established by statute and rule as verified by the agency during the reporting period.

Source/Collection of Data: This measure is calculated by the Chief Financial Officer using reports obtained from the agency's licensing system which list the number of individuals receiving new licenses by type of license during the reporting period. These reports are generated after the end of the reporting period. The system includes on the reports lists of only those persons who received licenses during the reporting period. The system calculates the totals in each report. The totals are then manually added.

Method of Calculation: This measure counts the total number of licenses issued to individuals during the reporting period, regardless of when the application was originally received. Only new licenses are counted. Licensees who upgrade to a new license type, but keep their current license number, are also counted as new.

Data Limitations: The agency cannot predict how many individuals will apply to become licensed, meet the qualifications and pass the exam(s) in any given quarter. There are other uncontrollable variables such as the timing of the receipt of an application, the Board meeting dates, and the exam dates which also factor into the number of licenses that will actually be issued during a quarter.

Calculation Type: Cumulative

New Measure: No

Desired Performance: Higher than target.

(2) Number of Licenses Renewed (Individuals)

Short Definition: The number of licensed individuals who renewed their license during the current reporting period.

Purpose/Importance: Licensure renewal is intended to ensure that persons who want to continue to practice in their respective profession satisfy current legal standards established by statute and rule for professional education and practice. This measure is intended to show the number of licenses that were issued during the reporting period to individuals who currently held a valid license.

Source/Collection of Data: This measure is calculated by the Chief Financial Officer using a report which is generated from the agency's licensing system. This report gives the number of renewals that are issued during the reporting period. The report is generated after the close of the reporting period.

Method of Calculation: This measure is calculated by querying the agency's licensing database to produce the report of the total number of renewals which have been issued during the reporting period. If a licensee holds more than one type of license and renews both, they are counted as two renewals. Licensees who renew their Inactive status do not count in this calculation.

Data Limitations: None.

Calculation Type: Cumulative

New Measure: No

Desired Performance: Higher than target.

EFFICIENCY MEASURES

(1) Average Time to Process Applications

Short Definition: The average time it takes to process a licensure application from date received to date approved to take required exams, or to license issuance date, whichever comes first.

Purpose/Importance: This measure shows the agency's efficiency in processing a licensing application.

Source/Collection of Data: The Chief Financial Officer generates two reports from the licensing system. The first one lists the initial applications approved during the reporting period, the dates they were received and the dates they were approved. The second one lists the licenses issued during the reporting period, the dates the initial applications were received and the dates the licenses were issued.

Method of Calculation: The first report automatically calculates the number of calendar days that elapsed from receipt of an application to the date of application approval, and then sums for all applications approved. The second report automatically calculates the number of calendar days that elapsed from receipt of an application to the license issuance date, and then sums for all licenses issued. The total number of days from both reports are manually added together to determine the numerator, and the denominator is determined by manually adding together the total number of applications approved from the first report and the total number of licenses issued from the second report. The numerator is then divided by the denominator to achieve an average.

Data Limitations: None

Calculation Type: Non-cumulative

New Measure: Yes

Desired Performance: Lower then target.

EXPLANATORY MEASURES

(1) Total Number of Individuals Licensed

Short Definition: Total number of individuals licensed at the end of the reporting period.

Purpose/Importance: The measure shows the total number of individual licenses currently issued which indicates the size of one of the agency's primary constituencies.

Source/Collection of Data: The Chief Financial Officer generates a report from the licensing system which provides the total, unduplicated number of individuals who hold licenses from this agency on the date that the report is run after the end of the reporting period.

Method of Calculation: The total unduplicated number of individuals licensed that is stored in the licensing database by the agency at the end of the reporting period. An individual who holds more than one license is counted only once. Individuals on inactive status are not included in the calculation for this measure.

Data Limitations: This information cannot be recaptured at a later time because the database changes daily and does not maintain a beyond one-day history file of current licenses.

Calculation Type: Non-cumulative

New Measure: No

ENFORCEMENT STRATEGY

OUTCOME MEASURES

(1) Percent of Complaints Resulting in Disciplinary Action

Short Definition: Percent of complaints which were resolved during the reporting period that resulted in disciplinary action.

Purpose/Importance: This measure is intended to show the extent to which the agency exercises its disciplinary authority in proportion to the number of complaints resolved. It is important that both the public and licensees have an expectation that the agency will work to ensure fair and effective enforcement of the act and this measure seeks to indicate agency responsiveness to this expectation.

Source/Collection of Data: The Chief Financial Officer generates reports from the licensing/enforcement system which list the total number of complaints resolved by type of resolution during the reporting period.

Method of Calculation: The total number of complaints resolved during the reporting period that resulted in disciplinary action (numerator) is divided by the total number of complaints resolved during the reporting period (denominator). The result should be multiplied by 100 to achieve a percentage. Disciplinary action includes agreed orders, reprimands, suspensions, probation, revocation, and administrative fines on which the Board has acted.

Data Limitations: The agency has no control over the content of the complaints filed against licensees. This measure does not take into account complaints where there has been no violations or when there are multiple complaints for the same offense.

Additionally, for cases that are referred to SOAH, the Board cannot assign disciplinary action if the administrative law judge does not recommend disciplinary action, except in certain limited circumstances.

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Lower than target.

(2) Recidivism Rate for Those Receiving Disciplinary Action

Short Definition: The number of repeat offenders at the end of the reporting period as a percentage of all offenders during the most recent three-year period.

Purpose/Importance: The measure is intended to show how effectively the agency enforces its regulatory requirements and prohibitions. It is important that the agency enforce its act and rules strictly enough to ensure consumers are protected from unsafe, incompetent and unethical practice by the registered or licensed professional.

Source/Collection of Data: The Chief Financial Officer uses previous performance report data to obtain the number of individuals receiving disciplinary actions during the current and preceding two fiscal years. The Chief Financial Officer generates a report from the licensing/enforcement system that encompasses the current and preceding two

fiscal years to list by name those licensees who have received disciplinary action. She then does a manual scan to see if any licensee has had more than one disciplinary action during this three year period.

Method of Calculation: The number of individuals against whom two or more disciplinary actions were taken by the Board within the current and preceding two fiscal years (numerator) is divided by the total number of individuals receiving disciplinary actions within the current and preceding two fiscal years (denominator). The result should be multiplied by 100 to achieve a percentage.

Data Limitations: None.

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Lower than target.

(3) Percent of Complaints Resolved within Six Months

Short Definition: The percent of complaints resolved during the reporting period, that were resolved within a six month period from the time they were initially received by the agency.

Purpose/Importance: The measure is intended to show the percentage of complaints which are resolved within a reasonable period of time. It is important to ensure the swift enforcement of the Psychologists' Licensing Act, which is an agency goal.

Source/Collection of Data: The Chief Financial Officer obtains a report from the licensing/enforcement system which includes all the complaints resolved during the reporting period, the date they were received and the date they were resolved.

Method of Calculation: The report automatically calculates the number of days it took to resolve the complaint. The Chief Financial Officer manually counts those complaints that were resolved in 180 days or less from this report. That number (numerator) is divided by the total number of complaints resolved during the reporting period (denominator). The result should be multiplied by 100 to achieve a percentage.

Data Limitations: The agency has less control over the time required to resolve cases that are referred to SOAH for resolution. Also, the agency has no control over the complexity of the complaints it receives, which significantly impacts the length of the investigations.

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Higher than target.

OUTPUT MEASURE

(1) Number of Complaints Resolved

Short Definition: The total number of complaints resolved during the reporting period.

Purpose/Importance: The measure shows the workload associated with resolving complaints.

Source/Collection of Data: The Chief Financial Officer obtains a report from the licensing/enforcement system which lists the complaints resolved by resolution type during the reporting period.

Method of Calculation: The report provides the number of complaints resolved. The number of complaints resolved includes determinations that a violation did not occur. A complaint that after preliminary investigation is determined to be non-jurisdictional is not a resolved complaint.

Data Limitations: The agency cannot control the type or complexity of the complaints it receives. The more complex complaints require more investigation time and therefore fewer complaints may be resolved during any given time period.

Calculation Type: Cumulative

New Measure: No

Desired Performance: Higher than target.

(2) Number of Complaints Pending

Short Definition: The total number of complaints received that have not completed the investigative and/or adjudication process.

Purpose/Importance: This measure will provide the agency with the number of outstanding complaints.

Source/Collection of Data: The Chief Financial Officer obtains a report from the licensing/enforcement system which lists the complaints open, or pending, as of the last day of the reporting period.

Method of Calculation: This report provides the number of complaints pending. This report can be sorted by date received, by classification or by current status of complaint.

Data Limitations: The agency cannot control the type or complexity of the complaints it receives. The more complex complaints require more investigation time and therefore fewer complaints may be resolved during any given time period, thereby increasing the number of complaints pending.

Calculation Type: Non-Cumulative

New Measure: Yes

Desired Performance: Lower than target.

EFFICIENCY MEASURES

(1) Average Time for Complaint Resolution

Short Definition: The average length of time to resolve a complaint for all complaints resolved during the reporting period.

Purpose/Importance: The measure shows the agency's efficiency in resolving complaints.

Source/Collection of Data: The Chief Financial Officer generates a report from the licensing/enforcement system which lists the complaints resolved during the reporting period, the dates they were received and the dates they were resolved.

Method of Calculation: This report automatically calculates the number of calendar days per complaint resolved that elapsed from receipt of a request for agency intervention to the date of final disposition of the complaint by the Board, and then sums for all complaints resolved. This number (numerator) is divided by the number of complaints resolved during the reporting period (denominator). The calculation excludes complaints determined to be non-jurisdictional of the agency's statutory responsibilities.

Data Limitations: The agency cannot control the time to resolve those cases which it has to refer to SOAH for resolution. SOAH sets its own schedules and the schedules of the responding attorneys for the licensees must be accommodated as well. Also, the agency cannot control the type or complexity of the cases it receives. The more complex complaints require more investigation and therefore take longer to resolve.

Calculation Type: Non-cumulative

New Measure: No

Desired Performance: Lower than target.

EXPLANATORY MEASURE

(1) Number of Jurisdictional Complaints Received

Short Definition: The total number of complaints received during the reporting period which are within the agency's jurisdiction of statutory responsibility.

Purpose/Importance: The measure shows the number of jurisdictional complaints which helps determine agency workload.

Source/Collection of Data: The Chief Financial Officer generates a report from the licensing/enforcement system which lists all jurisdictional complaints received during the time period.

Method of Calculation: The agency sums the total number of complaints received only relative to their jurisdiction. It also keeps track of the total number of complaints that are not in its jurisdiction but does not use that figure in its calculation.

Data Limitations: The agency cannot control the number of complaints nor the type of complaints that it receives.

Calculation Type: Cumulative

New Measure: No

**TEXAS
BEHAVIORAL
HEALTH
EXECUTIVE
COUNCIL**



MEMBERS OF THE COUNCIL

Gloria Z. Canseco, M.A., Chair

**Dr.h.c. Sarah Abraham
John K. Bielamowicz
Timothy M. Brown, M.S.W.
Steve Christopherson, M.S.
Susan Fletcher, Ph.D.
George Francis, IV
Benny Morris
Jennifer Smothermon, M.A.**

**Darrel D. Spinks
Executive Director**

June 2, 2020

Hub.reports@lbb.state.tx.us
Legislative Budget Board
Robert E. Johnson Bldg., 5th Fl.
1501 N. Congress
Austin, Texas 78701

Hub.riders@cpa.texas.gov
Comptroller of Public Accounts
Lyndon B. Johnson State Office
Bldg.
111 E. 17th Street
Austin, Texas 78774

**Re: Texas Behavioral Health Executive Council (510)
HUB Compliance Plan Mandated by Art. IX, Section 7.07 Historically Underutilized
Business Policy Compliance of Tex. H.B. 1, 86th Leg., R.S. (2019).**

To Whom It May Concern:

In accordance with Art. IX, Section 7.07 Historically Underutilized Business Policy Compliance of Tex. H.B. 1, 86th Leg., R.S. (2019), the Texas Behavioral Health Executive Council ("Council") hereby submits this report on its compliance and plan for maintaining future compliance with Government Code, §2161.123.

The Council is unable to show any information as evidence of its efforts to comply with HUB goals for fiscal years 2018 or 2019 because the agency did not exist until September 1, 2019. See H.B. 1501, 86th Leg., R.S. (2019).

The Council's HUB policy is responsive to the Sec. 7.07 (a)(1) and (a)(3)(E)-(F) and requires that the Council purchase commodities and other services from HUB vendors in specified percentages¹. The percentages are adjusted annually based upon the agency's performance during the prior year and anticipated needs. According to Council policy, the agency will attempt to obtain at least three bids, including a minimum of two bids from HUBs, on all commodity purchases in excess of \$5,000. The vast majority of agency purchases however, involve commodities or IT services from set-aside vendors or DIR. Additionally, agency expenditures for other services include such things as contracts with licensees who serve as consultants or professional reviewers for the agency. Given the highly particularized nature of these services, it is often difficult to secure the services from a HUB vendor.

The Council refers to the 2009 Texas Disparity Study conducted by the Comptroller of Public Accounts, Texas Procurement and Support Services Division (TPASS) for the information requested in Sec. 7.07

¹ 1% for *Other Services* and 75% for *Commodities*.

(a)(3)(A)-(D). The findings and results from 2009 Disparity Study are fully incorporated herein for all pertinent purposes, as if set forth verbatim herein. The activities stated in Sec. 7.07 (3)(A)-(D) are activities associated with conducting a disparity study. These reporting requirements were also included in Rider 18, from the previous legislative session. TPASS addressed these reporting activities in its response to the State Auditor's Office (SAO) Report No. 15-006, October 2014, Page 83-84 (see excerpt below). The Council is in agreement with TPASS' statement and furthermore notes, the agency has not been appropriated any funds to conduct future disparity study activities nor does the agency currently have the expertise, information required, or resources to sufficiently conduct these activities.

C. We did not include Items (a) through (d) of Rider 18 in the assessment instrument. This decision was based on the fact that state agencies and institutions of higher education neither have sufficient resources nor the required information to perform quarterly tasks identified in items (a) through (d). Conducting items (a), (b), and (c) requires access to "Availability" data. In that respect, one must have an exhaustive list of all Ready, Willing, and Able minority (not limited to HUB vendors) and non-Minority vendors in Texas to be able to perform those tasks. Conducting "statistical disparities by race, ethnicity, and gender" in "firms earning" and "in the area of utilization of women-and minority owned firms" and "in commercial construction" is a very complex task which requires a high level of statistical expertise and collection of relevant data through surveys and interviews, which would be nearly impossible to conduct on a quarterly basis. Likewise, item (d), which requires an analysis of "anecdotal testimony of disparate treatment ... [of] business owners," is a lengthy and costly process and practically impossible to conduct on a quarterly basis. Anecdotal data for recording "disparate treatment as presented by business owners" must be collected through public hearings, focus groups, and statewide surveys of business owners. The process of collecting anecdotal testimonies is often lengthy and extremely costly, and it requires a high level of expertise and resources. These tasks are commonly performed when conducting a disparity study and may take a year or longer to complete. In that respect, items (a), (b), (c), and (d) listed in Rider 18 can be performed by conducting a new statewide Disparity Study or updating the Texas Disparity Study-2009, which we already have underway.

The Council, by and through its HUB policy and goals, will continue to make good faith efforts to meet its goals established under Tex. Gov't Code Ann. §261.123(d)(5) for increasing its use of historically underutilized businesses.

Should you have any questions or concerns regarding this report, please do not hesitate to contact either myself or Ms. Jennifer Noack, the Council's Chief Financial Officer, at 512-305-7700.

Sincerely,



Darrel D. Spinks
Executive Director

WORKFORCE PLAN

Texas Behavioral Health Executive Council June 2020

Overview

History:

The Texas Behavioral Health Executive Council (“Council”) was created by H.B. 1501 2019 by the 86th Legislature. The enabling legislation for the Council is found in Chapter 507 of the Occupations Code.

Mission:

The mission of the Council is to protect and promote the welfare of the people of Texas by ensuring that behavioral health services and social work practice are provided by qualified and competent practitioners who adhere to established professional standards. This mission is derived from the duly enacted statutes governing each regulated profession, as well as the law creating the Council, and supersedes the interest of any individual or special interest group.

The Council accomplishes this mission through its regulation of marriage and family therapy, professional counseling, psychology, and social work by:

- ❑ Establishing educational, experience, examination, and continuing education requirements;
- ❑ Adopting professional standards for the practice of each profession;
- ❑ Investigating and enforcing compliance with the requirements of the statutes and rules governing each profession; and
- ❑ Serving as a source of information to the public, the professions, and governmental entities.

Goals and Objectives:

Licensure:

Objective: Ensure that practitioners meet required competency standards through 2025

Strategy: To operate a quality licensure program through an efficient and cost effective program of licensure, including education, experience, and examination requirements, continuing education requirements and renewal requirements.

Strategy: Provide for the processing of occupational license, registration, or permit fees through Texas.gov.

Enforcement and Laws and Rules:

Objective: Ensure that all practitioners comply with established law and rules through 2025.

Strategy: Operate a quality investigations/enforcement program in response to complaints concerning marriage and family therapy, professional counseling, psychology, and

social work practice consistent with the due process laws of Texas, in a timely manner and with a focus during enforcement on rehabilitation of the licensed provider.

Business Functions:

The Council is charged with regulating the practice of marriage and family therapy, professional counseling, psychology, and social work in the State of Texas. The Council reviews applications for licensure in accordance with its own rules and Chapters 501, 502, 503, 505, and 507 of the Occupations Code. The Council administers the jurisprudence examinations for each profession and approves most applicants to sit for the national examinations. There are 10 types of licensure available through the Council, excluding temporary and provisional licenses: Licensed Marriage and Family Therapist, LMFT Associate, Licensed Professional Counselor, LPC Intern, Licensed Psychological Associate, Licensed Psychologist, Licensed Specialist in School Psychology, Licensed Baccalaureate Social Worker, Licensed Master Social Worker, and Licensed Clinical Social Worker.

The Council investigates complaints and resolves them either by dismissal or disciplinary action. Disciplinary action ranging from reprimand to revocation is usually attained by agreed order.

The Council provides information about its functions and licensees to various segments of the public including insurance companies, health maintenance organizations, and individual consumers. The agency's website has become its primary means of conveying information to its licensees, as well as to all other entities seeking information about the Council and its operations.

Anticipated Changes to Mission, Strategies, and Goals for the Next Five Years:

The Council does not anticipate changes to its mission or strategic goals, objective, or strategies for the next five years, but does anticipate changes to its rules, policies, procedures, and workforce as a natural consequence to the evolving circumstances faced by a new agency.

Factors Expected to Result in Changes to the Agency:

Key economic, environmental, and other factors that may result in changes at the agency within the next five years:

- ❑ Potential for staff turnover if compensation packages do not remain competitive with other agencies or the private sector, or do not keep pace with cost-of-living increases;
- ❑ Additional requirements and reporting mandated by the legislature or other state or federal officials;
- ❑ Increasing demands on the agency and staff due to a greater need for more behavioral health providers within the state;
- ❑ Conscious and deliberate efforts by the Council and agency leadership to continually reassess agency operations, rulemaking, communications, etc., in an effort to improve the delivery of services to the public;
- ❑ Information technology increasingly used by the agency and other entities with which the agency interfaces;

- ❑ Significant reductions in state revenue projected by the Comptroller of Public Accounts;
- ❑ Customers demanding more timely services and greater access to agency functions and information; and
- ❑ Static funding for state agencies not identified as top priorities for state funding.

Supply Analysis

Current Workforce Analysis

Classified, Exempt, and Temporary Workers

The Council has authorization for a total of 64 classified employees as of September 1, 2019, but has only been appropriated funding for one 1 FTE through August 31, 2020 – a Director IV who serves as the Executive Director for the agency. The remaining 63 positions are vacant, but offers of employment have been extended for at least 36 of those positions.

Diversity

The workforce diversity for the agency is:

Gender		
Male	1	100%
Female	0	0%
Race/Ethnicity		
Hispanic	0	0%
Asian or Pacific Islander	0	0%
White	1	100%
Age		
Under 30	0	0%
30-39	0	0%
40-49	1	100%
50-59	0	0%
60+	0	0%
Agency Tenure		
Less than 2 years	0	0%
2 years or more but less than 5 years	0	0%
5 years or more but less than 10 years	1	100%
10 years or more but less than 15 years	0	0%
15 years or more but less than 20 years	0	0%
20 years or more but less than 25 years	0	0%
25 years or more	0	0%

Percentage of Workforce Eligible to Retire:

FY2020 – 0%

Total Agency Turnover Rate:

No employee turnover information is available for this agency.

Projected Employee Turnover Rate During the Next Five Years:

The Council, having only been created as of September 1, 2019, cannot determine with any reasonable degree of certainty the turnover rate for staff within the next five years. However, the Council would estimate, based upon the classified employee turnover rates for the Texas State Board of Examiners of Psychologists¹ and the Texas State Board of Dental Examiners², that its turnover rate would fall somewhere between 7.7% and 11.6%, well below the statewide average of 20.3 percent.

Workforce Skills Critical to the Mission and Goals of the Council:

All agency staff must be proficient in the use of computers and other standard office equipment (e.g., copiers, scanners, fax machines), as well as typical software programs and suites used in office environments. Examples include Microsoft Office Suite, Adobe, Gmail, etc. Additionally, all agency staff must have excellent customer service skills because all staff are required in some way, to interact with stakeholders and members of the public which necessitates the ability to appreciate diversity and how it affects business processes.

Workforce Allocation:

See attached organizational chart.

Demand Analysis

Future Workforce Analysis

Expected Changes to the Workforce:

The Council anticipates changes to its future workforce due to the following factors.

- ❑ The trend of the legislature and other entities to place new mandates on the agency which increases the workload on staff.
- ❑ The current and projected need for more behavioral health practitioners due to the projected increase of the total population in the state.
- ❑ Increasing numbers of employees becoming eligible for retirement.
- ❑ Increasing use of automated or online technologies to enhance or improve agency efficiencies and public access.
- ❑ Turnover of staff caused by non-competitive compensation packages.

Future Workforce Skills Needed:

To continue to meet the Council's workload, legislative, and public needs, the agency must make better use of available budget/FTEs, cross-train within and outside of departments, establish automated procedures to provide efficiency and streamline processes, improve both internal and

¹ The Texas State Board of Examiners of Psychologists will be consolidated within the Council effective September 1, 2020, and is the agency after which significant portions of the Council's organization and divisions have been modeled, thereby making it a useful reference for future performance.

² The Texas State Board of Dental Examiners is an agency relatively similar in size to the Council in terms of the number of classified FTEs employed.

external communications, prepare and plan for change in leadership as retirements occur, and increase the use of technology throughout the agency.

With anticipated increased workload and to meet future workforce required skill sets, the Council must commit to developing the work skills of its current workforce, as well as recruiting individuals that possess the critical work skills necessary for the agency to carry out its mission.

GAP ANALYSIS

A comparison of the Council's workforce supply to the agency's workforce demand reveals that there are some areas of concern that need to be addressed.

- Staff Turnover Due to Non-Competitive Salaries a Concern: The agency's ability to carry out its mission depends heavily on the agency retaining its trained, experienced staff. The loss of seasoned staff to a new agency such as the Council, would have significant and pronounced negative effects on agency performance. Compensation packages which are not competitive with other agencies or the private sector increase the likelihood for employee turnover, and thus must be kept competitive where feasible.

Gap Strategy Development

Gap Strategy: Succession Planning

Staff Position Books

Positions at the agency should develop training manuals which include materials pertinent to each position including policies and procedures, as well as form letters, checklists, etc. These manuals are invaluable in training new staff and should be updated and added to as procedures in various areas change or are enhanced. These manuals assist with the standardization of agency functions, the cross-training of staff, and serve as valuable training resources for new staff.

Cross Training of Staff

When possible, staff are provided cross training for other positions within the agency. This is difficult to achieve because of the intricacies of each position and the resulting amount of time required to cross train for another position. Additionally, staff do not receive any kind of increased salary for cross training in other positions.

Gap Strategy: Employee Development

Staff Training

The agency hopes to assist all staff with improving their writing and editing skills by sending them to various training opportunities. However, inadequate funding for staff development and limited training opportunities make it difficult to send all those in need to training.

Staff Involvement in Rulemaking and Policy Development

Opinions and input are sought from key staff persons before changes are made to rules, policies, and procedures. This allows the agency to make full use of the expertise of staff and facilitates both development and implementation of the changes by investing the staff in the success of the changes.

Gap Strategy: Retention of Staff

Flextime

The Council provides the options of flextime and the 4 day work week for most positions. However, at small state agencies alternative scheduling is inherently limited because the office must remain open each weekday from 8am to 5pm. Therefore, not all staff are able to participate in these alternate work schedules. Staff are informed of the availability of these options, as well as their limitations, before they are hired.

Telecommuting

The Council provides the options of telecommuting for most positions.

Promotion from Within

When a vacancy occurs in the agency, qualified internal staff are encouraged to apply for the position. Such upward mobility of staff provides added impetus to entry level staff to perform their duties to the best of their abilities.

Gap Strategy: Increased Use of Online Services

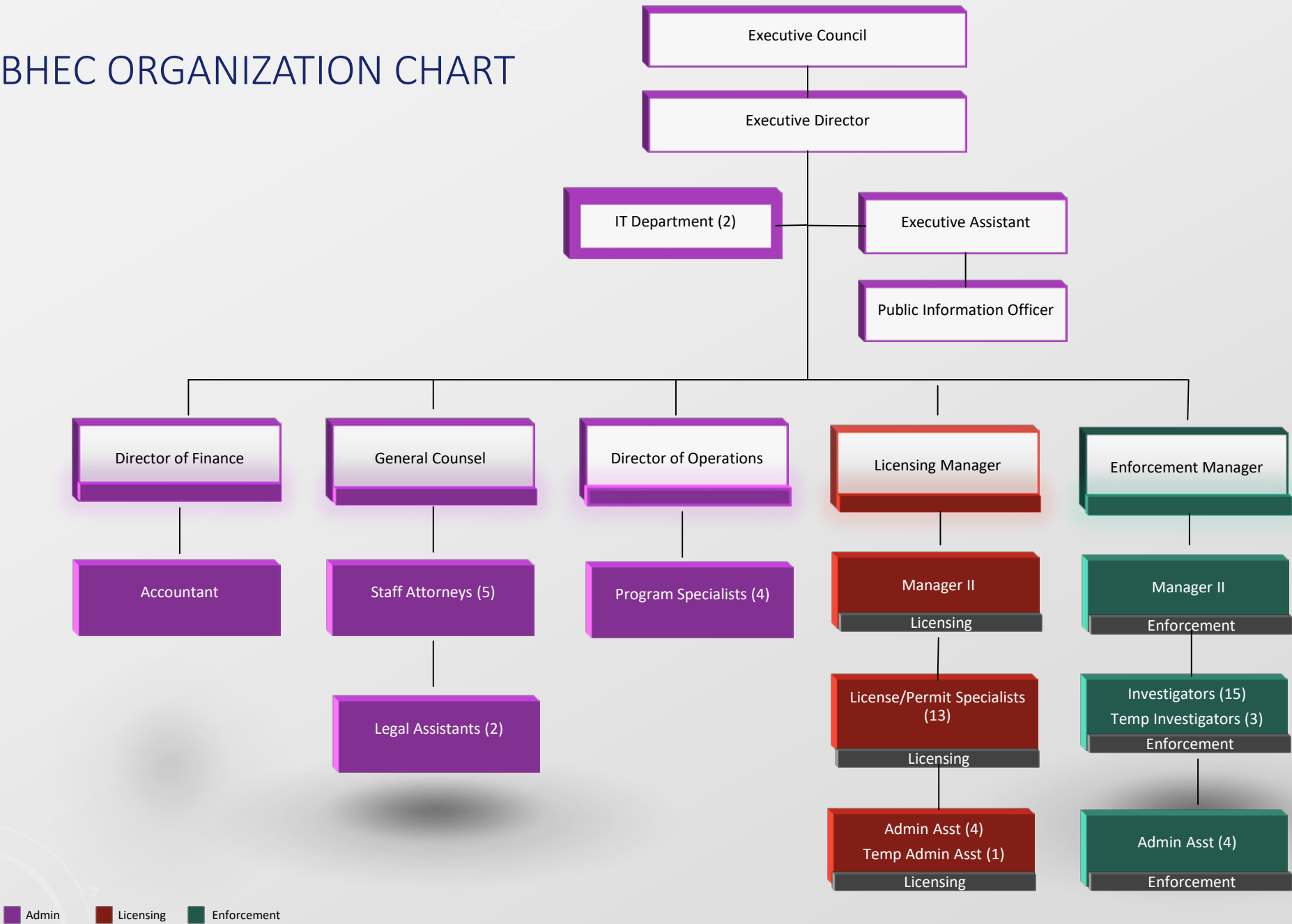
Enhanced Use of Board Website

The Council's website is the single most powerful tool for increasing efficiency and customer service that the Council has at its disposal. The Council is steadily working toward making its website a comprehensive source of information easily accessible by the public 24/7.

Gap Strategy: Legislative Appropriation Request

The Council will request additional funding through the legislative appropriations process for salary increases where needed to ensure a competitive compensation package for those staff identified as deserving a merit salary increase.

BHEC ORGANIZATION CHART



REPORT ON CUSTOMER SERVICE

Texas State Board of Examiners of Psychologists

Submitted: May 2020

<u>Board Member</u>	<u>Date of Term</u>	<u>Hometown</u>
Herman B. Adler, M.A.	2018 - 2023	Houston
John K. Bielasowicz	2016-2021	Waxahachie
Tim F. Branaman, Ph.D.	2008-2019	Dallas
Ryan T. Bridges	2018 - 2023	Houston
Angela A. Downes, J.D.	2008-2019	Irving
Susan Fletcher, Ph.D.	2016-2021	Plano
Lou Ann Todd Mock, Ph.D.	2008-2019	Bellaire
Ronald S. Palomares, Ph.D.	2016-2021	Dallas
Andoni Zagouris, M.A.	2018 - 2023	McAllen

**Darrel D. Spinks
Executive Director**

**333 Guadalupe, 2-450
Austin, Texas 78701
512-305-7700**

Executive.Director@tsbep.texas.gov

REPORT ON CUSTOMER SERVICE FY 2019

Texas State Board of Examiners of Psychologists

Submitted: May 2020

A. Inventory of External Customers

Customers by strategy with the types of services provided:

Strategy: A.1.1. Licensing

Licensees:

Processing of fees; review and issuance of renewal permits, professional development audits, enforcement services; newsletter, online rulebook, website information; individual correspondence and Board opinions.

Applicants:

Processing of fees; distribution of application packets, application processing, issuance of licenses; enforcement; website information.

Patients/Clients of licensees:

Complaint packets, processing of complaints, informal conferences, notifications of status of complaint, and correspondence; website information.

Insurance companies:

Status of licenses; open records information; enforcement information.

Managed care entities:

Status of licenses; open records information; enforcement information

Students:

Application packets, online rulebooks, website.

Higher education training programs:

Information on agency programs, examination results, rules.

Licensees of other states who may wish to become licensed in Texas:

Processing of fees; distribution of application packets; dissemination of licensure and examination requirements.

Other states' psychology licensing boards:

Status of licenses; open records information; disciplinary and enforcement information.

Professional organizations:

Presentations, correspondence, information on licensees and agency programs.

National testing services:

Approval of candidates for national psychology exam; requests for scores

Legislators:

Provide various types of information, budget requests, constituents' requests for information, required fiscal and performance reporting.

Other state agencies:

Provide various types of information responsive to requests.

Federal agencies:

Cooperation on federal suits, information on licensees.

Strategy B.1.1. Enforcement

Patients/Clients of licensees:

Complaint packets, processing of complaints, informal conferences, notifications of status of complaint, and correspondence; website information

Licensees:

Processing of complaints, enforcement, informal conferences, notifications of status of complaint, and correspondence; professional development audits; newsletter and online rulebook.

Applicants:

Processing of complaints, enforcement, eligibility orders, informal conferences, notifications of status of complaint, and correspondence; newsletter and online rulebook.

Insurance companies:

Status of licenses; disciplinary and enforcement information.

Managed care entities:

Status of licenses; disciplinary and enforcement information.

Other states' psychology licensing boards:

Status of licenses; open records information; disciplinary and enforcement information.

Professional organizations:

Presentations, correspondence, disciplinary and enforcement information; information on licenses and agency programs.

Legislators:

Provide various types of information responsive to requests; budget requests, constituents' requests for information, required fiscal and performance reporting; disciplinary and enforcement information.

Other state agencies:

Provide various types of information responsive to requests from: Attorney General's Office, Comptroller's Office, Office of the Governor, Auditor's Office, etc.

Federal agencies:

Cooperation on federal suits and prosecutions.

Attorneys:

Negotiation of agreed orders for their clients.

B. Information Gathering Methods

- The Psychology Board, like all other state agencies, is mandated by Section 2113 of the Government Code to develop customer service standards and to implement customer satisfaction assessment plans. Of the customers identified for each of its strategies, the Board then selected its most prominent groups of customers who receive services directly. The agency used the surveys that it had developed previously for this report again for FY 2019 as the results from previous years were appropriate, effective and reliable. Minor changes were made to survey questions to reflect changes in agency requirements (e.g., change from annual to biennial renewals; increased use of technology).
- Customer groups surveyed include: current licensees, applicants, written examinees, complainants, respondents, and persons who make open record requests to the agency. These groups involve the agency's two strategies: licensure and enforcement.
- Six different surveys were used for these six groups. The surveys were developed specifically for this mandate.

- The style of the surveys is similar; however, some questions on each are modified to better address the customer group being surveyed. Copies of the six surveys are provided.
- Each survey consists of approximately 8-13 statements, which the survey participant (participant) is asked to mark on a scale of 1 to 5 (strongly disagree, disagree, neutral, agree, strongly agree). Additionally each survey includes a space for the participant to make suggestions if he/she thinks the process could be improved.
- A total of 435 surveys were distributed and 45 were returned. In an effort to reduce costs, the surveys were sent by e-mail, using Survey Monkey, rather than mailing them and including self-addressed, stamped envelopes. The name of the participant is always optional, therefore persons can respond anonymously. The survey response rate is provided in an accompanying chart. Overall the response rate was 4.12%, a 6.22% increase from 2016-2017.
- Random sampling was used in this manner:

Current licensees: licensees who renewed in FY 2019.

Applicants: persons approved for licensure in FY 2019.

Written examinees: applicants who took the written examinations in FY 2019.

Respondents: licensees whose cases were resolved in FY 2019.

Complainants: persons whose complaints against licensees were resolved in FY 2019.

Requestors for Open Records: persons who made open record requests from the agency FY 2019.

C. Customer-Determined Satisfaction Synopsis

The Psychology Board determines satisfaction on the surveys by considering a score of either 3, 4 or 5 as satisfactory. A score of either 1 or 2 is not satisfactory. Survey Monkey automatically calculates the ratings for each survey returned, noting the rating of 1-5 that each question on the survey received. A total satisfaction rating for each question on all surveys is obtained and then these are totaled for a final satisfaction rating for the survey type.

The satisfaction ratings can be compared in many ways including determining which surveys received the worst or best ratings from a target population, the

question per survey type that received the best and worst ratings, and satisfaction ratings per survey type from year to year.

For the FY 2019 surveys, the agency received an overall satisfaction rate of 82.19%, a increase of 1.47%. The satisfaction rate for the 2016-2017 surveys was 80.72%, for the 2014-2015 surveys was 86.92%, Fiscal Year 2012 was 91.73% and Fiscal Year 2011 was 90.52%.

For this biennium's surveys, the Psychology Board received a higher score on two of its six different surveys than it did the previous year. One area could not be rated last year as no one sent that particular survey chose to respond. However, there was a 13.27% increase in satisfaction for this area from the 2014-2015 biennium.

The Psychology Board received overall favorable ratings (scores of 3, 4 and 5) from all six of the groups surveyed.

Attached is a synopsis of the total number of surveys which were distributed, the number of surveys returned, the percentage of the responses for each survey that were satisfactory and the final overall satisfaction rate. Also attached are copies of the six surveys that were used: Licensee Survey, Complainant Survey, Respondent Survey, Applicant Survey, Written Exam Survey, and Public Information Requestor Survey.

D. Analysis of Survey Results

The Psychology Board believes that the overall results of the FY 2019 surveys were favorable to the Board and its operations. The lowest scores were received on the Complainant Survey (64.82% satisfaction). Satisfaction rating for this survey has ranged from a high of 82.14% in 2011 to a low of 35.71% in 2000. It should be noted that only 6 of the 30 complainants surveyed chose to return their surveys. The fact that complainants chose not to respond could be interpreted as their being basically satisfied with the Board's resolution of their complaints. Also, since the majority of complaints filed with the Board cannot be substantiated and are therefore dismissed, this fact alone could account for why this survey historically reflects the lowest satisfaction rate.

In reviewing all the surveys and their responses, the questions that had the lowest satisfaction rating were on the Complainants' Survey. This survey has a total of nine questions. The questions with the lowest ratings state:

1. The Board's information about how a complaint is processed (e.g., provided in the rulebook and on the agency's website) was helpful.
2. The Board kept me informed about the time expected for resolution of the complaint.
3. The Agency's investigation staff was accessible to me by phone when I had questions about the complaint and/or investigation.

4. My complaint was resolved in a reasonable period of time given the agency's limited resources and duty to review every complaint received thoroughly.
5. The Board does an adequate job of processing complaints.

Again, there is no apparent reason for the low ratings for these questions. All complainants are sent a letter informing them if the timelines for resolution of their complaints are delayed. Additionally, all complainants are sent a letter informing them of the final status of their complaint and, within the confines allowed by law, are informed of the reason for the Board's resolution of the complaint. Often, people are unhappy when their complaints are dismissed due to a lack of evidence or when the Board determines that no violation occurred.

Although this area received the lowest overall satisfaction rating, it should be noted that the satisfaction rate increased by 24.19% from the previous year's surveys.

All comments received are discussed with the agency staff. Comments identifying ways to improve services are weighed for feasibility and economic impact. In past years many of the comments have led to changes in procedures. All comments received on the surveys are presented to the Board for their review at a regularly scheduled Board meeting. The Board reviews the detailed statistics from the surveys returned.

In response to some of the comments received, the Board will continue to review and revise its website to ensure ease of accessibility and user friendliness.

The Board continues to make changes in its enforcement and licensing rules and processes to improve the timeliness of complaint resolution and license issuance. The advent of online renewals has assisted licensees in timely renewal and the requirement for online profiles as a condition of license renewal assists the consumer in accessing information about individual psychologists.

E. Customer-related Performance Measures Definitions

1. OUTCOME MEASURES:

Percentage of Surveyed Customer Respondents Expressing Overall Satisfaction with Services Rendered

Short Definition: The percentage of persons who responded to the customer surveys who expressed general satisfaction with the agency's services that they were provided.

Purpose/Importance: This measure is intended to show the percentage of agency customers that are generally satisfied with the services they received.

Source/Collection of Data: Information comes from different surveys which were e-mailed to representatives of each of the agency's customer groups on a biennial basis.

- a. Current licensees: random sampling of licensees renewing in 2019.
- b. New licensees: random sampling of persons who obtained licensure in 2019.
- c. Written examinees: random sampling of persons who sat for the Board's Jurisprudence Examination in 2019.
- d. Persons who received Public Information request information: random sampling of persons who received open record request information in 2019.
- e. Complainants: random sampling of persons whose complaints were resolved during 2019.
- f. Respondents: random sampling of licensees whose complaints were resolved in 2019.

Method of Calculation: The measure is calculated by Survey Monkey by placing the scores for each type of survey on one report per type. Thus, there are six reports. Each report provides the percentages of satisfactory responses on each question for each survey returned, arriving at one total percentage of satisfaction per each survey type. The usual method of calculating this Outcome Measure is to take these totals from each survey; adding them together and dividing the resulting number by 6, which is the number of the different types of surveys

Data Limitations: Not all customers can be surveyed. Only the major customer groups are surveyed: current licensees, newly licensed persons, written examinees, persons who received open record request information, complainants and respondents.

Calculation: Non-cumulative

New Measure: New

Desired Performance: Performance that is higher than target is preferable.

Percentage of Surveyed Customer Respondents Identifying Ways to Improve Service Delivery

Short Definition: The percentage of customers surveyed by the agency that responded and identified ways for the agency to improve the delivery of services.

Purpose/Importance: The measure is intended to show the percentage of customers who offered suggestions of ways that services could be improved by the agency.

Source/Collection of Data: Information comes from different surveys which are e-mailed to representatives of each of the agency's customer groups. Responses are requested to be sent to an e-mail address listed on every survey.

- a. Current licensees: random sampling of licensees renewing in 2019.
- b. New licensees: random sampling of persons who obtained licensure in 2019.
- c. Written examinees: random sampling of persons who sat for the Board's Jurisprudence Examination in 2019.
- d. Persons who received Public Information request information: random sampling of persons who received open record request information in 2019.
- e. Complainants: random sampling of persons whose complaints were resolved during 2019.
- f. Respondents: random sampling of licensees whose complaints were resolved in 2019.

Method of Calculation: The measure is calculated by totaling the number of surveys to all customer groups with suggestions for improvements and then dividing by the total number of all returned surveys.

Data Limitations: Not all customers are surveyed. Only the major customer groups are surveyed: current licensees, newly licensed persons, written examinees, persons who received open record request information, complainants and respondents.

Calculation: Non-cumulative

New Measure: New

Desired Performance: Performance that is higher than target might show that there are more problems that need to be corrected. Performance that is lower than target might show that the agency is doing a better job and therefore there are fewer suggestions for corrections. The agency has no control over the number of customers who respond to its surveys.

2. OUTPUT MEASURES:

Number of Customers Surveyed

Short Definition: The total number of persons to whom a survey was sent.

Purpose/Importance: The measure is intended to show how extensive the survey was.

Source/Collection of Data: The information comes from counting the number of surveys that are sent.

Method of Calculation: The measure is calculated by counting the number of surveys that are sent.

Data Limitations: There are no data limitations. It is expected that the number surveyed will fluctuate from year to year, due to the source/collection of data methodology for random sampling.

Calculation Type: Cumulative

New Measure: New

Desired Performance: A higher performance would indicate that more persons were surveyed. A lower performance would indicate that fewer persons were surveyed.

The agency has no control over the number of customers that seek its services.

Number of Customers Served

Short Definition: Total number of customers served in target customer groups per fiscal year.

Purpose/Importance: This measure is intended to show the total number of customers served in target customer groups per fiscal year.

Source/Collection of Data: Information comes from totaling the following:

- a. Total number of current licensees.
- b. Total number of persons who received licensure in the fiscal year.
- c. Total number of persons who took one of the Agency's two required examinations in the fiscal year.
- d. Total number of persons who received open record requests information in the fiscal year.
- e. Total number of complainants who had their cases resolved during the fiscal year.

- f. Total number of respondents who had their cases resolved during the fiscal year.

Method of Calculation: This measure is calculated by totaling all of the customers in the fiscal year for all the target customer groups.

Data Limitations: Not all customers are surveyed. Only the major customer groups are surveyed: current licensees, newly licensed persons, written examinees, persons who received open record request information, complainants and respondents.

Calculation: Cumulative

New Measure: New

Desired Performance: Performance that is higher would indicate a greater number of customers. Performance that is lower would indicate a lower number of customers served. The agency has no control over the number of customers that seek its services.

3. EFFICIENCY MEASURES:

Cost per Customer Surveyed

Short Definition: The cost of sending a survey by e-mail.

Purpose/Importance: The measure is intended to assess the cost of surveying one person.

Source/Collection of Data: The measure is collected by totaling the cost of sending out the surveys.

Method of Calculation: The measure is collected by totaling the costs for sending out the surveys and dividing by the total number of surveys sent.

Data Limitations: The measure does not capture the amount of staff hours that are required to prepare the surveys for sending, receiving the surveys back, entering them in a database, and calculating the responses.

Calculation: Non-cumulative

New Measure: New

Desired Performance: Performance that is higher would indicate that the costs for the surveys have increased. Performance that is lower would indicate that the costs for the surveys have decreased.

4. EXPLANATORY MEASURES

Number of Customers Identified

Short Definition: The total number of persons from the target customer groups for which the agency has a name and address.

Purpose/Importance: This measure is intended to verify that the agency knows who its customers are.

Source/Collection of Data: This information is collected at the end of the fiscal year, when the agency can calculate the following:

- a. The total number of current licensees.
- b. The total number of persons who obtained licensure.
- c. The total number of persons who took the written examinations.
- d. The total number of persons who made written open record requests to the agency.
- e. The total number of complainants who had their cases resolved.
- f. The total number of respondents who had their cases resolved.

Method of Calculation: The measure is calculated by adding up the totals from all of these groups.

Data Limitations: The agency has other customer groups that it does not survey including: the state legislature, higher education institutions, other state agencies, etc.

Calculation: Cumulative

New Measure: New

Desired Performance: A performance that is higher would indicate that the agency has more customers in these customer groups. A performance that

is lower would indicate that the agency is serving fewer customers. The agency has no control over the number of customers that seek its services.

Number of Customer Groups Inventoried

Short Definition: The number of customer groups that the agency uses to calculate its customer service performance measures. These are the major customer groups for the agency.

Purpose/Importance: This measure is intended to identify the total number of major customer groups for the agency.

Source/Collection of Data: Information for this measure comes from totaling the number of major customer groups surveyed.

Method of Calculation: Adding major customer groups

Data Limitations: None

Calculation: Cumulative

New Measure: New

Desired Performance: A higher performance would indicate that more customer groups were surveyed. A lower performance would indicate that fewer customer groups were surveyed.

F. Customer Service Performance Measures for 2019

1.	Percentage of Surveyed Customer Respondents Expressing Overall Satisfaction with Services Rendered	82.19%
2.	Percentage of Surveyed Customer Respondents Identifying Ways to Improve Service Delivery	51.16%
3.	Number of Customers Surveyed	435
4.	Number of Customers Served	11,984
5.	Cost Per Customer Surveyed	\$0.00
6.	Number of Customers Identified	11,984
7.	Number of Customer Groups Inventoried	6

G. Estimated Fiscal Year 2017-2018 Customer Service Performance Measures

1.	Percentage of Surveyed Customer Respondents Expressing Overall Satisfaction with Services rendered	80.72%
2.	Percentage of Surveyed Customer Respondents Identifying Ways to Improve Service Delivery	67.64%
3.	Number of Customers Surveyed	825

4.	Number of Customers Served	9,613
5.	Cost per Customer Served	\$0.00
6.	Number of Customers Identified	9,613
7.	Number of Customer Groups Inventoried	8

Synopsis of Customer Service Assessment Surveys 2019

Texas State Board of Examiners of Psychologists

Written Examinees

Surveys Distributed:	50
Surveys Returned:	2
No. of Questions on Survey:	5
Satisfaction Rate:	80.00%
(FY2000: 103/56; 85.36%)	
(FY 2001: 103/49; 91.24%)	
(FY 2002: 50/11; 85.45%)	
(FY 2003: 50/32; 93.19%)	
(FY 2004: 50/34; 93.49%)	
(FY 2005: 50/30; 97.33%)	
(FY 2006: 50/27; 97.78%)	
(FY 2007: 50/23; 97.39%)	
(FY 2008: 50/23; 98.26%)	
(FY 2009: 50/28; 94.95%)	
(FY 2010: 50/22; 97.23%)	
(FY 2011: 50/6; 85.36%)	
(FY 2012: 50/6; 96.67%)	
(2014-2015): 50/31; 94.80%)	
(2016-2017): 125/3; 93.33%	

Open Records Requests

Surveys Distributed:	40
Surveys Returned:	5
No. of Questions on Survey:	6
Satisfaction Rate:	83.33%
(FY2000: 60/34; 83.73%)	
(FY 2001: 80/44; 88.83%)	
(FY 2002: 40/2; 100%)	
(FY 2003: 40/21; 92.24%)	
(FY 2004: 40/15; 96%)	
(FY 2005: 40/24; 90.26%)	
(FY 2006: 40/16; 96.17%)	
(FY 2007: 40/12; 98.33%)	
(FY 2008: 40/17; 86.25%)	
(FY 2009: 40/32; 84.54%)	
(FY 2010: 40/20; 93.61%)	

(FY 2011: 40/27; 97.66%)
(FY 2012: 40/9; 100%)
(2014-2015: 40/20; 97.00%)
(2016-2017): 30/2; 100%)

Applicants

Surveys Distributed: 75
Surveys Returned: 11
No. of Questions on Survey: 10
Satisfaction Rate: 85.45%
(FY 2000: 72/46; 70.47%)
(FY 2001: 162/82; 74.47%)
(FY 2002: 75/46; 82.14%)
(FY 2003: 75/44; 80.28%)
(FY 2004: 75/36; 79.41%)
(FY 2005: 75/35; 81.42%)
(FY 2006: 75/27; 84.97%)
(FY 2007: 75/26; 86.04%)
(FY 2008: 75/31; 82.66%)
(FY 2009: 75/35; 89.89%)
(FY 2010: 75/32; 93.61%)
(FY 2011: 75/28; 81.26%)
(FY 2012: 75/20; 91.12%)
(2014-2015: 75/30; 83.41%)
(2016-2017: 91/7; 80.36%)

Current Licensees

Surveys Distributed: 200
Surveys Returned: 19
No. of Questions on Survey: 11
Satisfaction Rate: 88.96%
(FY 2000: 428/241; 78.33%)
(FY 2001: 300/249; 78.74%)
(FY 2002: 150/59; 78.88%)
(FY 2003: 150/80; 83.46%)
(FY 2004: 150/87; 86.03%)
(FY 2005: 150/78; 78.63%)
(FY 2006: 150/72; 80.09%)
(FY 2007: 150/57; 85.12%)
(FY 2008: 150/77; 86.54%)
(FY 2009: 150/68; 87.88%)
(FY 2010: 150/68; 89.47%)
(FY 2011: 150/68; 87.10%)
(FY 2012: 150/40; 90.59%)
(2014-2015: 200/61; 89.58%)
(2016-2017: 531/18; 89.29%)

Complainants

Surveys Distributed: 30
Surveys Returned: 6
No. of Questions on Survey: 9
Satisfaction Rate: 64.82%%
(FY 2000: 15/2; 35.71%)
(FY 2001: 34/8; 50.00%)
(FY 2002: 30/10; 62.86%)
(FY 2003: 30/18; 68.44%)
(FY 2004: 30/11; 65.32%)
(FY 2005: 30/11; 75.19%)
(FY 2006: 30/10; 62.86%)
(FY 2007: 30/12; 63.07%)
(FY 2008: 43/12; 60.39%)
(FY 2009: 30/14; 74.95%)
(FY 2010: 11/8; 74.95%)
(FY 2011: 9/9; 82.14%)
(FY 2012: 30/11; 67.18%)
(2014-2015: 30/11; 69.58%)
(2016-2017: 48/4; 40.63%)

Respondents:

Surveys Distributed: 40
Surveys Returned: 4
No. of Questions on Survey: 8
Satisfaction Rate: 90.63%
(FY 2000: 24/8; 60.04%)
(FY 2001: 89/29; 80.70%)
(FY 2002: 40/19; 79.30%)
(FY 2003: 40/11; 88.31%)
(FY 2004: 40/15; 85.27%)
(FY 2005: 40/15; 88.03%)
(FY 2006: 40/15; 85.87%)
(FY 2007: 40/18; 79.14%)
(FY 2008: 50/25; 81.27%)
(FY 2009: 40/18; 94.96%)
(FY 2010: 40/16; 86.30%)
(FY 2011: 18/18; 85.16%)
(2014-2015: 30/19; 77.36%)
(2016-2017: 63/0; undetermined; zero responses)

TOTAL: 82.19%
(FY2000: 73.74%)
(FY 2001: 80.75%)
(FY 2002: 83.15%)

(FY 2003: 85.81%)
(FY 2004: 86.12%)
(FY 2005: 86.295%)
(FY 2006: 87.87%)
(FY 2007: 87.88%)
(FY 2008: 86.01%)
(FY 2009: 90.38%)
(FY 2010: 90.70%)
(FY 2011: 90.52%)
(FY 2012: 91.73%)
(2014-2015: 88.27%)
(2016-2017: 80.72%)

* Scores of 3 (Neutral), 4 (Agree) or 5 (strongly agree) on a 5 point scale with 5 being the highest rate of satisfaction.

STATUS REPORT May 2020 Board Meeting		2Q FY20 Dec 1, 2019 to Feb 29, 2020	1Q FY20 Sep 1, 2019 to Nov 30, 2019	4Q FY19 Jun 1, 2019 to Aug 31, 2019	3Q FY19 Mar 1, 2019 to May 31, 2019
Number of Pending Complaints		121	132	124	121
Number of New Complaints Received		21	39	24	29
Pending Imminent harm cases		0	0	0	0
Pending cases alleging Sexual Violations		3	4	1	2
Pending Applicant cases		1	3	3	2
Cases Resolved this Quarter (33 dismissals, 4 sanctions)		37	30	26	33
Cases dismissed by Staff		32	26	19	23
Cases dismissed by the Board		1	3	1	6
Cases reviewed at ISC this Quarter		6	6	6	4

TOTAL PENDING CASES

		2Q FY20 (as of 2/29/20)	1Q FY20 (as of 11/30/19)	4Q FY19 (as of 8/31/19)	3Q FY19 (as of 5/31/19)
2017		0	0	1	2
2 going to SOAH	2018	8	21	37	42
1 going to SOAH	2019	62	72	86	77
1 going to SOAH	2020	51	39	0	0
Total		121	132	124	121

H:\Enforcement\Enforcement Forms\STATUS REPORT by Qtr.doc



Enforcement/Complaints Summary Report

Client Code: 6101,6102,6103,6201,6202,6203,72

Start Date: 08/14/2008

End Date: 05/31/2020

Date Used For Selection: Receipt

	Total Number of Complaints	Jurisdiction Received	Jurisdiction Resolved	Jurisdiction Avg Time of Resolution
1061/Board of Examiners of Prof Counselors				
6101/Licensed Professional Counselor				
Case	747	747	0	
Standard Case	99	99	0	
<hr/>				
6101/Licensed Professional Counselor Total:	846	846	0	0
6102/Professional Counselor CE Provider				
Case	2	2	0	
<hr/>				
6102/Professional Counselor CE Provider Total:	2	2	0	0
<hr/>				
1061/Board of Examiners of Prof Counselors Total:	848	848	0	
1062/Board of Examiners of Marr and Fam Ther				
6201/Licensed Marriage and Family Therapists				
Case	104	104	0	
Standard Case	2	2	0	
<hr/>				
6201/Licensed Marriage and Family Total: Therapists	106	106	0	0
<hr/>				
1062/Board of Examiners of Marr and Fam Ther Total:	106	106	0	
1072/Board of Social Worker Examiners				
7201/Licensed Social Worker				
Case	271	271	0	
Standard Case	35	35	0	
<hr/>				
7201/Licensed Social Worker Total:	306	306	0	0
7202/Temporary Licensed Social worker				
Case	2	2	0	
<hr/>				
7202/Temporary Licensed Social worker Total:	2	2	0	0
7203/Social Worker CE Provider				
Case	2	2	0	
<hr/>				
7203/Social Worker CE Provider Total:	2	2	0	0
<hr/>				
1072/Board of Social Worker Examiners Total:	310	310	0	

Enforcement/Complaints Summary Report

Client Code: 6101
Start Date: 08/14/2008
End Date: 05/31/2020
Date Used For Selection: Receipt

	Total Number of Complaints	Jurisdiction Received	Jurisdiction Resolved	Jurisdiction Avg Time of Resolution
1061/Board of Examiners of Prof Counselors				
6101/Licensed Professional Counselor				
Case	482	377	377	562
Standard Case	1,687	1,355	1,355	817
6101/Licensed Professional Counselor Total:	2,169	1732	1732	761
1061/Board of Examiners of Prof Counselors Total:	2,169	1,732	1,732	761

Enforcement/Complaints Summary Report

Client Code: 6201
Start Date: 10/26/2015
End Date: 05/31/2020
Date Used For Selection: Receipt

	Total Number of Complaints	Jurisdiction Received	Jurisdiction Resolved	Jurisdiction Avg Time Resolution
1062/Board of Examiners of Marr and Fam Ther				
6201/Licensed Marriage and Family Therapists				
Case	125	101	101	28,315
Standard Case	45	31	31	346
6201/Licensed Marriage and Family Total: Therapists	170	132	132	296
1062/Board of Examiners of Marr and Fam Ther Total:	170	132	132	296



Enforcement/Complaints Summary Report

Client Code: 7201,7202

Start Date: 08/31/2009

End Date: 05/31/2020

Date Used For Selection: Receipt

	Total Number of Complaints	Jurisdiction Received	Jurisdiction Resolved	Jurisdiction Avg Time of Resolution
1072/Board of Social Worker Examiners				
7201/Licensed Social Worker				
Complaint	1	1	1	29
Case	281	208	206	497
Standard Case	1,001	898	897	856
7201/Licensed Social Worker Total:	1,283	1107	1104	789
7202/Temporary Licensed Social worker				
Case	4	3	3	163
Standard Case	17	17	17	574
7202/Temporary Licensed Social worker Total:	21	20	20	512
1072/Board of Social Worker Examiners Total:	1,304	1,127	1,124	784

All managerial positions have been filled, save and except the Program Specialist V (Executive Director) position associated with the Psychology Board.

Interviews and selection of licensing, enforcement, and legal staff is underway.

- Licensing has filled all 13 Lic. & Permit Spec. positions and 1 administrative assistant position. 2 receptionist and 1 administrative assistant position remain vacant. The remaining vacant positions will be re-posted in July.
- Enforcement has filled 10 investigator positions and 3 administrative assistant positions. 5 investigator positions and 1 administrative assistant position remain vacant. One of the investigator positions is expected to be filled in June, with the remaining vacant positions being re-posted in July.
- Legal has 7 vacant positions but will be interviewing candidates for the positions after the meeting.
- Accounting and Open Records each have one vacant position which will be filled as we get closer to the transition date of Sept. 1st.
- Both IT positions have yet to be filled; HPC IT support staff are currently handling all IT needs for BHEC and will assist with the hiring of IT staff once we gain a better understanding of the type of staff needed. We are exploring whether some of the functions we had originally anticipated needing IT staff for could be handled by the State Data Center or HPC IT staff.

Database transition is progressing on schedule. Kickoff meeting has been held with weekly updates for all parties involved. UAT testing began the week of June 8th, with additional testing scheduled as needed.

Agency staff are working with HPC and DIR staff to transition domain controllers and file servers to the State Data Center, i.e. cloud based servers. This should ensure greater IT security while also making the eventual move to the new capitol complex building much easier.

The Texas Facilities Commission has selected the space currently occupied by the Texas State Board of Public Accountancy and the Texas Board of Architectural Examiners in the Hobby Building as the locations where BHEC will be housed. The Enforcement Division will be located on the 3rd floor of Tower 2 in the Hobby Building while the remaining divisions and agency staff will be located on the 9th floor of Tower 3.

The space occupied by the Board of Public Accountancy has its own dedicated board meeting room, and the space occupied by the Architectural Board has a smaller meeting room that could be utilized for board or council meetings if necessary. I have instructed staff to begin exploring the IT equipment necessary to conduct virtual meetings from the large meeting room.

BHEC has begun the procurement process for computers and office equipment and already received computers for agency staff. BHEC is fortunate in that it will be able to benefit from some of the furniture left behind by the Public Accountancy and Architectural Examiners boards, thereby reducing costs.

The Executive Director and General Counsel are currently working with each member board to revise their rules in accordance with H.B. 1501. It is anticipated that these rules will be considered for proposal at the June 16th meeting of the Council.

The Executive Council will consider adoption of its first rules, which were published in the April 24th edition of the Texas Register, at its June 16th meeting.

The Executive Council anticipates the launch of its website in June.

BHEC Transition Plan

GENERAL TASKS

<u>Task</u>	<u>Responsibility</u>	<u>Projected Start Date</u>	<u>Projected Completion Date</u>	<u>Status</u>	<u>Division</u>	<u>Comments</u>
Get quote for Project Change Request (PCR)	TSBEP	January 2019	January 2019	Complete	Database	Proposed procedural rules to be considered for adoption at June 16th meeting.
Adopt Procedural Rules	TSBEP/HHSC/BHEC	September 1, 2019	July 31, 2020	In Progress		
Adopt Transition Plan	BHEC	September 2019	January 14, 2020	Completed		
Complete Transfer of Regulatory Programs to BHEC	TSBEP/HHSC/BHEC	September 1, 2019	August 31, 2020	In Progress		
MOU for Accounting and Purchasing Services	BHEC/TSBEP	September 2019	November 2019	Completed	Legal	
IAC for Interim Director	BHEC/TSBEP	September 2019	November 2019	Completed	Legal	
MOU for General Counsel Services	BHEC/TSBEP	September 2019	November 2019	Completed	Legal	
MOU with TDLR for open meetings; human resources/hiring of permanent BHEC Director; and certain rulemaking tasks	BHEC/TDLR	September 2019	December 2019	Completed	Legal	
MOU between BHEC and Health Professions Council (HPC) for data transition	BHEC/HPC	September 2019	November 2019	Completed	Legal	
Develop and Approve Transition Plan	BHEC/TSBEP/HHSC	September 2019	January 2020	Completed	Legal	
Statement of Work	BHEC/TSBEP/HHSC/HPC/Micropact	October 2019	October 2019	Completed	Legal	PCR signed by John Monk at HPC.
Interim Executive Director appointed	BHEC	October 2019	October 2019	Completed	Budget	
Begin CFO duties - set up USAS, enter state-paid draw downs.	TSBEP	October 2019	March 2020	Completed	Budget	
Identify points of contact for each program, by function (licensing, enforcement, accounting, admin)	TSBEP/HHSC/BHEC	October 2019	October 2019	Completed	Admin	Go through Tim Speer at HHSC for any contact information.
List of all Board members with emails, addresses and phone numbers.	TSBEP/HHSC/BHEC	October 2019	October 2019	Completed	Admin	
Prepare FY 2020 Operating Budget	TSBEP	October 2019	November 2019	Completed	Budget	
Identify points of contact for database transfer of information	HHSC/TSBEP	October 2019	December 2019	Completed	Database	Angie and James to work with Weijen. One member each from the LMFT and Social Worker Boards did not receive the required training. One member has resigned and the other no longer qualifies to serve.
Complete Board Member Training	TSBEP	October 19, 2019	December 1, 2019	Completed		
CAPPS Configuration	TSBEP	October 2019	January 2020	Completed	Budget	
Finalize location arrangements	TSBEP/BHEC	October 2019	February 2020	In Progress	Budget	Met with TFC on March 4. Aged on location plans. Hobby Building Tower 3, 9th Floor and Tower 2, 3rd Floor.
Council Hiring Committee - Conduct interviews and recommend final candidates to the Council for final interviews and consideration.	BHEC	January 2020	March 2020	Completed	Budget	
Hire Executive Director	BHEC	October 15, 2019	April 1, 2020	Completed		Darrel Spinks to start 3/1/20
Complete Council Member Training	TSBEP	October 19, 2019	August 31, 2020	Completed		

Discuss/agree on transition timelines	TSBEP/HHSC/BHEC	November 2019	November 2019	Completed	Admin	Transition of programs to occur upon database Go-Live on August 24.
Meetings with staff to discuss database transition timelines and go-live date.	HHSC/TSBEP/HPC	November 2019	August 2020	Ongoing	Database	
Meetings with HHSC IT staff to discuss transfer of data to HPC.	HPC/HHSC	November 2019	August 2020	Ongoing	Database	Weekly project meetings with HHSC IT staff, HPC IT, BHEC staff and MicroPact on Tuesdays at 1:30 pm.
Update TSBEP and HHSC websites with current status of transfers. Build BHEC program webpages – coming soon information. Start posting known information and dates, FAQs.	TSBEP/HHSC/BHEC	November 2019	August 2020	Ongoing	Admin	TSBEP and PLCU programs posting information about BHEC on its website.
Posting deadline for January meeting agenda (post earlier if possible)	TDLR	January 6, 2020	January 6, 2020	Completed		
BHEC Council Meeting	BHEC	January 14, 2020	January 14, 2020	Completed		
Identify and provide lists of all applicable federal, state, county, and municipal statutes and rules that affect or relate to the transferred programs.	TSBEP/HHSC/BHEC	January 2020	February 2020	Completed	Legal	Agency staff have identified what they believe to be all the laws applicable to the agency.
Identify trade associations, national associations, and interested parties involved – annual conferences, meetings.	TSBEP/HHSC/BHEC	January 2020	January 2020	Completed	Admin	
Obtain email subscriber list from HHSC programs. If none available, get email list from VR of all licensees and applicants.	TSBEP/HHSC/BHEC	January 2020	January 2020	Not Started	Admin	
Identify any draft or proposed rules being worked on for the programs before transfer.						This will be done as part of the rule review conducted by each member board in connection with the rule changes necessary following adoption of procedural rules by the Council. LMFT Bd. proposed rule changes at 4/17th meeting; Psych. Bd. proposed rule changes at May 14th meeting; LPC Bd. proposed rule changes at May 15th meeting; Social Worker Bd. anticipated to propose rules at June 6th meeting.
Hire Executive Director - put into CAPPs	TSBEP/HHSC/BHEC	January 2020	February 2020	Completed	Legal	
	TSBEP	January 2020	March 2020	Completed	Budget	Five executive level jobs were posted as of 2/28. Program Specialists, Executive Assistant and 2 Manager II positions are posted through 3/31/20. All postings for other positions have been completed, but need to hire management staff first. Plan to post remaining jobs in early to mid-April.
Prepare job postings for all positions	TSBEP/BHEC	January 2020	March 2020	Completed	Budget	

Set up metered mail account for 510	TSBEP	January 2020	March 2020	Completed	Budget	TBHEC metered mail account set up and has funds in it.	
Bi-weekly meetings to discuss data transfer, configuration, user acceptance testing, issue updates, training, etc.	HHSC/TSBEP/ Micropact/HPC	January 2020	August 2020	Ongoing	Database	Weekly project status meetings with HPC IT staff and TSBEP staff are occurring every Tuesday at 9:00 am On site visits for cabling being scheduled. ATOS is building out domain controller and file server. Updated 6/5	
Set up new domain controller and file server	TSBEP/BHEC	January 1, 2020	April 1, 2020	In Progress	Admin		6/5
Posting deadline for February meeting agenda (post earlier if possible)	TDLR	January 24, 2020	January 24, 2020	Completed			
BHEC Council Meeting	BHEC	February 4, 2020	February 4, 2020	Completed			
Prepare/adopt performance measure definitions	TSBEP/BHEC	February 2020	March 2020	Completed	Budget	Performance measure definitions were approved at March Council meeting. Changes to strategic structure has been submitted to LBB/Governor's office for BHEC Performance Measures.	
Configuration freeze	HHSC/TSBEP/HPC	February 2020	July 2020	In Progress	Database	Configuration freeze began June 19, 2020, until August 24, 2020.	6/5
Posting deadline for March meeting agenda (post earlier if possible)	TDLR	February 21, 2020	February 21, 2020	Completed			
BHEC Council Meeting	BHEC	March 2, 2020	March 2, 2020	Completed			
Setup Texas.gov for online payment only applications through TPE. New coding block for online transactions. New IAC contract for DCS/Texas.gov/Office 365 services.	TSBEP/BHEC	March 2020	April 2020	In Progress	Admin	Completed New Customer form for DCS/Texas.gov/Office 365 services from DIR and emailed to Terese Shade at DIR. Awaiting IAC from DIR to be sent to agency. Submitted coding blocks for Texas.gov and eStrategy payments online payments. Awaiting UAT for 3 day Comptroller testing in June. Matt (eStrategy) will test the eStrategy coding block with Comptroller.	6/5
Initial database transfer into testing environment.	HPC/Micropact	March 2020	March 2020	In Progress	Database	Project kickoff in March 2020. Initial data transferred May 2020. Review of data setup in Versa began May 26, 2020. Data is ready for UAT testing beginning June 8.	6/5
Set up ORI numbers with DPS/FBI for fingerprinting checks.	HHSC/TSBEP	March 2020	March 2020	In Progress	Licensing	Spoke with Tine at DPS. HB 1501 has been sent to FBI for approval for authority to fingerprint. Awaiting word from FBI. Once received, DPS will set up new account ORI number. TSBEP account will be converted to TBHEC account.	6/5

Meeting with each program for comprehensive overview of licensing, enforcement, rules, etc.	TSBEP/HHSC	March 2020	March 2020	Completed	Admin	Initial meetings held with Tim Speer to go over general licensing processes. Plan to hold more detailed meetings with Managers and Program Specialists towards end of April.	
Meeting with licensing to discuss processes, education, examination, and licensing requirements for each license type.	HHSC/TSBEP	March 2020	April 2020	In Progress	Licensing		
Meeting with outside entities involved in program - exam providers, continuing education course providers and any entities approving courses.	HHSC/TSBEP	March 2020	April 2020	In Progress	Licensing		
Meeting with enforcement to discuss processes.	HHSC/TSBEP	March 2020	April 2020	In Progress	Enforcement		
Interviews for BHEC jobs	TSBEP/BHEC	March 2020	May 2020	In Progress	Budget	All Manager level positions except one have been accepted. All Licensing and Enforcement positions have been filled. Legal positions are in process of interviewing. A second round of postings will take place to fill remaining vacancies in July. Letter was sent to OOG and LBB on June 1st notifying them of anticipated filing of strategic plan following approval at June 16th meeting. Strategic Plan will be reviewed for approval at the Council's June 16th meeting. BHEC.texas.gov domain secured. Drafting of individual webpages is underway.	6/5
Prepare Strategic Plan	TSBEP/BHEC	March 2020	May 2020	In Progress	Budget		
Design/develop new BHEC website.	TSBEP/HHSC/BHEC	March 2020	June 2020	In Progress	Admin		
Copies of all forms (application, exam, etc.) and publications.	HHSC/TSBEP	March 2020	July 2020	In Progress	Licensing	Working on standardizing letters, and converting them to BHEC formatting.	
Copies of all forms (complaint, NOV, etc.) and publications.	HHSC/TSBEP	March 2020	July 2020	In Progress	Enforcement	Working on standardizing letters, and converting them to BHEC formatting.	
Identify all lawsuits, complaints, or investigations pending with OAG for all four programs and identify any issues that have the potential for legal action. (OAG main office and regional offices, and all OAG divisions)	HHSC/TSBEP/BHEC	March 2020	July 2020	Completed	Legal	There are no active or threatened claims pending against any of the member boards.	
Draft and edit forms and publications. Create forms/publications inventory.	TSBEP/HHSC/BHEC	March 2020	July 2020	In Progress	Admin	Staff have begun reviewing and revising agency forms.	
Offers of employment effective 9/1/2020	TSBEP/BHEC	April 2020	May 2020	In Progress	Budget	36 offers of employment have been extended as of June 5th.	
Inventory and transfer paper records, both on-site and off-site. Obtain approval to transfer from Records Management. Review records retention plan for programs.	TSBEP/HHSC	April 2020	May 2020	In Progress	Admin	RRS is under review by ED and will be submitted to TSLAC for final approval	

							Record Retention Schedule should address this issue.	
Decide what to do with paper files.	TSBEP/HHSC/BHEC	April 2020	May 2020	In Progress	Admin			
Upgrade, create, implement secure systems and practices for the storage of complaint records	HHSC/TSBEP	April 2020	July 2020	In progress	Enforcement		Record Retention Schedule should address this issue.	
In 2021, BHEC has a contingency revenue rider attached to the bill. Proof of revenue will need to be provided to the Comptroller for certification of those funds. This will require revenue monitoring and action from the CFO.	TSBEP/BHEC	April 2020	August 2020	In Progress	Budget		Fee increases to fund revenue contingency rider to be adopted as part of BHEC procedural rules.	
Prepare USAS coding block for CPA	TSBEP/BHEC	May 2020	May 2020	Completed	Budget		Coding block has been sent to Comptroller.	6/5
							UAT start date June 8, 2020 until July 27, 2020. Rooms have been reserved for HHSC employees at Hobby building for portions of the first three weeks of June.	6/5
User Acceptance Testing	HHSC/TSBEP/HPC	May 2020	May 2020	In Progress	Database		May use email blast and website notices. These have been prepared and approved.	
Postcard mail out to transferring licensees to announce pending transfer and give BHEC contact info (welcome to BHEC cards).	TSBEP/HHSC/BHEC	May 2020	May 2020	In Progress	Admin		Will begin in June/July.	6/5
Submit Texas.gov change request/ Amend Texas.gov customer agreement.	TSBEP/HHSC/BHEC	May 2020	May 2020	Completed	Admin		Texas.gov Onboarding form completed for BHEC. Submitted in May.	6/5
Base Reconciliation - this is a report required by the LBB in the spring of 2020 that will need to be completed. It will be the beginning of the LAR request in the summer.	TSBEP/BHEC	May 2020	June 2020	Completed	Budget		Base Reconciliation instructions are out. Communicatd with Daniela at LBB to "normalize" BHEC funding for Base Rec. Submitted 4/30/20.	
							Draft of postcard completed. Need to coordinate with Tim Speer concerning August renewals (VO/VR downtime) and September (and thereafter) renewals. BHEC will be responsible for renewal mailouts beginning with September renewals. HHSC will email BHEC a mailing list of open renewal applications for the three programs. BHEC will send mailing list to UT Document Solutions to prepare the postcard mailing. UT will deliver to TPASS to mail out.	
Send out notications of online renewals ONLY and fingerprinting requirement.	HHSC/TSBEP	May 2020	July 2020	In Progress	Licensing		60 laptops, monitors, docking stations, mouse and keyboards have been purchased and delivered.	
Purchases of laptops, VOIP switch, workstations, consumables, USB drives for HHSC staff, etc.	TSBEP	May 2020	July 2020	In Progress	Budget			
Posting deadline for June meeting agenda (post earlier if possible)	TDLR	June 8, 2020	June 8, 2020					

BHEC Council Meeting	BHEC	June 16, 2020	June 16, 2020				
Final data transfer	HHSC/TSBEP/HPC	June 2020	June 2020	In Progress	Database	Final data transfer is scheduled for 8/21. Live testing will occur 8/22 - 8/23 for Go/No Go decision. Staff will be needed that weekend for live data entry. Contact Grace at TSBPA to DM27 the furniture, and complete Transfer Property form so that it is not on SPA.	
Transfer TSBPA property to BHEC	TSBEP/BHEC	June 2020	July 2020	Not Started	Admin		
Post new licensing forms and instructions to BHEC website.	BHEC	June 2020	July 2020	Not Started	Licensing		
Notify licensees with July 2020 license expiration of anticipated system downtime.	HHSC/TSBEP	June 2020	July 2020	Not Started	Licensing		
Setup email addresses, phone/data lines, copiers, fax machines	TSBEP	June 2020	July 2020	Not Started	Budget	Working with Melissa at DIR to order/setup phone lines. CFO is continuously working on LAR budget as expenses are known/anticipated.	6/5
Prepare LAR	TSBEP/BHEC	June 2020	July 2020	In Progress	Budget	Letters have been prepared and approved. Will begin sending out in June/July.	6/5
Send all TSBEP and HHSC licensees "Welcome to BHEC" letter, including new processes for HHSC, and system downtime for all licensees.	TSBEP/HHSC/BHEC	June 2020	July 2020	In Progress	Licensing		
Remove downloadable applications from HHSC program websites and redirect to BHEC webpage. Remove all downloadable renewal forms.	HHSC/TSBEP	July 2020	July 2020	Not Started	Licensing		
Send letters to complainants and respondents regarding change from HHSC to BHEC.	HHSC/TSBEP/BHEC	July 2020	July 2020	Not Started	Enforcement	Received notification from Melissa Baker at DIR on how/when to order phones.	
Submit CCTS work order for new phones/lines.	TSBEP	July 2020	July 2020	In Progress	Admin		
Complete PCI SAQ for BHEC - include both service codes	BHEC	August 2020	August 2020	Not Started	Database	Go Live scheduled for August 24.	
Go-Live - Database	HHSC/TSBEP/HPC	August 2020	September 2020	Not Started	Database		
Turn on public information regarding issuance and expiration dates for TSBEP licensees	HPC	August 2020	September 2020	Not Started	Database		
Re-direct HHSC web programs to BHEC website.	HPC	August 2020	September 2020	Not Started	Admin		
Set up email subscription system for the licensees	BHEC	August 2020	August 2020	Not Started	Admin		
Enter new hires with 9/1/2020 effective date	TSBEP	August 2020	August 2020	Not Started	Budget		
Prepare for FY 2021/ Close out FY 2020	TSBEP/BHEC	August 2020	August 2020	Not Started	Budget		
Coordinate transfer of licensing transactions in progress.	HHSC/TSBEP/BHEC	July 2020	August 2020	Not Started	Licensing		
Coordinate transfer of open complaints and investigations in progress.	HHSC/TSBEP/BHEC	July 2020	August 2020	Not Started	Enforcement		
Coordinate transfer of enforcement cases in progress.	HHSC/TSBEP/BHEC	July 2020	August 2020	Not Started	Enforcement		
Contact SOAH regarding new agency and any pending cases.	BHEC	July 2020	August 2020	Not Started	Enforcement		

Turn off renewals for PLP rank	BHEC	July 2020	July 2020	In Progress	Database	PLP renewals are scheduled to be turned off in July, for September renewals.
Submit STS ticket for First Data Portal Access	BHEC	September 2020	September 2020	Not Started	Database	
Submit STS ticket for TPE Admin Access	BHEC	September 2020	September 2020	Not Started		
Orient and train new staff, customer service, licensing, enforcement, and compliance	BHEC	September 2020	Ongoing	Not Started	Admin	All changes affecting PLP rank will be part of Go Live. Angie is working on configuration, and Jennifer is testing new configurations in PreProd as Angie completes them.
Place recordings on HHSC phone lines directing callers to BHEC	HHSC	September 2020	Ongoing	Not Started	Admin	
Move all PLP rank to LP rank, change status from 20 Active to 21 Provisional Status, set all expiry dates to August 31, 2022.	BHEC	September 2020	September 2020	In Progress	Database	
BHEC PROCEDURAL RULES						
Draft BHEC Proposed Rules	TSBEP/BHEC		March 2020			
Draft Preamble and Fiscal Impact Form for BHEC Proposed Rules	TSBEP/BHEC		March 2020			
Submit BHEC Proposed Rules to Governor's Office for policy review	TSBEP/BHEC		March 2020			
Discuss BHEC Proposed Rules at BHEC Meeting. Possible recommendation for publication of Proposed Rules	BHEC	January 2020	March 2, 2020			
Submit Appropriate BHEC Proposed Rules to Governor's Office for anti-trust review	TSBEP/BHEC					
File BHEC Proposed Rules with the Texas Register.	TSBEP/BHEC					
BHEC Proposed Rules published in the Texas Register for 30-day public comment period.	TSBEP/BHEC					
Collect and respond to public comments on the BHEC Proposed Rules	TSBEP/BHEC					
Discussion of BHEC Proposed Rules and public comments at BHEC Meeting. Possible adoption of proposed rules.	BHEC		June 16, 2020			
File BHEC Rules Adoption Notice with the Texas Register	TSBEP/BHEC					
BHEC Rules Adoption Notice published in the Texas Register	TSBEP/BHEC					
Post adopted rules to BHEC website	TSBEP/BHEC					
RULES OF THE FOUR INDIVIDUAL BOARDS						
Identify any draft or proposed rules being worked on for the four individual programs before transfer.	TSBEP/HHSC/BHEC					
Amend and repeal (as necessary) any existing rules of the four individual boards to align with the new BHEC structure and procedural rules.	TSBEP/HHSC/BHEC					

Develop a rules timeline for the individual board that will ensure adoption of amended rules by September 1, 2020. This should include fee changes required by the contingency rider for HB 1501.

TSBEP/HHSC/BHEC

Application Processing Times

TSBEP

The following figures represent the average number of days it is currently taking for agency staff to process the various types of applications for licensure:

- 34 days to process an application for licensure as a psychologist;
- 45 days to approve a provisional applicant to sit for the exams and issue provisional trainee status;
- 37 days to approve an LPA applicant to sit for the exams; and
- 22 days to approve an LSSP applicant to sit for the jurisprudence examination and issue the trainee status.



STATE OF TEXAS

May 20, 2020

To: State Agency Board/Commission Chairs
State Agency Heads/Executive Directors
Appellate Court Justices and Judges
Chancellors, Presidents, and Directors of Institutions and Agencies of Higher Education

Please accept our sincere thanks for the incredible work provided by your agencies and institutions and the dedication you have shown to help the state through this troubling time. Each agency has taken on the challenge and worked tirelessly to ensure that essential services are provided to Texans in need. Know that we are committed to prioritizing the public health of our state.

As you have no doubt seen, there is significant economic uncertainty not only in this state but across the country and around the world. We are confident that Texas will get back to work and continue leading the nation in job growth, economic innovation, and business creation. However, it will take months until we know the true extent of the economic ramifications of COVID-19, and how combating this virus will impact state finances. To prepare for this economic shock, we must take action today to ensure that the state can continue providing the essential government services that Texans expect.

To achieve that goal, every state agency and institution of higher education must engage in prudent fiscal management efforts. Savings achieved in the current biennium are not only necessary to offset current year revenue losses, the savings will provide for the smoothest path toward recovery as you provide necessary services to Texans. Some cost saving strategies that agencies should pursue that will not affect the state's response to COVID-19 include foregoing any capital expenditures that can be deferred, any avoidable travel expenditures, any administrative expenses that are not mission critical, and keeping unfilled any open positions that are not essential to the COVID-19 response. These savings should be lapsed to the Treasury.

Additionally, we request each state agency and institution of higher education submit a plan identifying savings that will reduce your general and general revenue related appropriations by five percent for the 2020-2021 biennium. Please submit this plan to the Legislative Budget Board and the Office of the Governor by June 15, 2020.

Given the importance of the state's response to COVID-19 and the continuity of critical government functions, the following are excluded from the five percent reduction:

- Appropriations to the Texas Division of Emergency Management, the Texas Department of State Health Services, the Texas Workforce Commission, the Texas Military Department, and the Texas Department of Public Safety;

- Funding for debt service requirements and bond authorizations;
- Current law requirements for the Foundation School Program and school safety;
- Funding for Child Protective Services;
- Benefits and eligibility levels in Medicaid programs, the Children's Health Insurance Program, the foster care program, the adoption subsidies program, the permanency care assistance program, and services for individuals with intellectual or developmental disabilities;
- Funding for behavioral health service programs;
- Appropriations for Correctional Security Operations and Correctional Managed Health Care at the Texas Department of Criminal Justice;
- Appropriations to Health Related Institutions and Community Colleges; and
- Employer Contributions to the Teacher Retirement System and Employees Retirement System funds and to Social Security.

In the coming weeks, the Legislative Budget Board and the Office of the Governor will issue instructions for the Legislative Appropriations Request that each state agency and institution of higher education will submit for the 2022-2023 biennium. While the exact final instructions are still being determined, every state agency and institution should prepare to submit reduced budget requests as well as strategies to achieve further savings. Furthermore, when the state revenue picture becomes clearer in the coming months, it may become necessary to make additional budget adjustments.


Though state leaders will make difficult decisions in the future, please know that we will not impede your agency's response to the coronavirus threat or take actions that will harm the public health of this state. As Texans recover from this pandemic, it is incumbent that state government continues to maintain mission critical services without placing a greater burden on taxpayers. Your assistance in achieving these goals is imperative.

Our offices stand ready to assist you with any questions you have or any clarifications that may be necessary. Thanks again for your service to the state and her people. We will get through this time by helping our fellow neighbors and relying on them in turn.

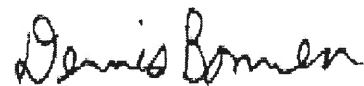
Sincerely,



Greg Abbott
Governor



Dan Patrick
Lieutenant Governor



Dennis Bonnen
Speaker of the House

Expenditure	Proposed Budget Cut	Budget Remaining
1 temporary receptionist	\$28,000	
2 (out of 3) temporary investigators	\$72,000	
Reduced payroll tax	\$1,500	
Eliminate board member per diem	\$1,400	
Eliminate professional case reviews	\$5,000	
Reduction in consumables	\$10,000	\$15000
Reduction in board travel	\$72,000	\$8000
Reduction in council travel	\$22,000	\$3000
Eliminate miscellaneous travel budget	\$5,000	
Reduce registration fees	\$2,500	\$2500
Reduce mailing services	\$1,746	Approx. \$9K
Eliminate calligraphy licenses	\$2,000	
Reduce miscellaneous services	\$3,000	Approx. \$1K
Eliminate software/computer/equipment replacement	\$2,000	
Eliminate other operating expenses	\$2,000	
Reduce Google Apps./Office365 subscriptions	\$600	\$14400

TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL



MEMBERS OF THE COUNCIL

Gloria Z. Canseco, M.A., Chair

Dr.h.c. Sarah Abraham
John K. Bielamowicz
Timothy M. Brown, M.S.W.
Steve Christopherson, M.S.
Susan Fletcher, Ph.D.
George Francis, IV
Benny Morris
Jennifer Smothermon, M.A.

Darrel D. Spinks
Executive Director

June 15, 2020

Office of the Governor
Budget and Policy Division
P.O. Box 12428
Austin, Texas 78711

Re: 5% Budget Reduction Plan for Texas Behavioral Health Executive Council (510)

Governor Abbott:

The Texas Behavioral Health Executive Council was established in 2019 following passage of H.B. 1501 by the 86th Legislature. The Council was designed to address the issues and concerns identified by the Sunset Advisory Commission, the boards, agency staff, stakeholders, and members of the public during the sunset review of the Texas State Board of Examiners of Marriage and Family Therapists, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Examiners of Psychologists, and the Texas State Board of Social Worker Examiners.

The fiscal note attached to H.B. 1501 and the contingency rider found in Art. IX, Section 18.11 of Tex. H.B. 1, 86th Leg., R.S. (2019) were intended to ensure the successful launch and operation of this new agency. While the Council certainly understands and appreciates the prudence in asking agencies to submit a plan for a 5% budget reduction given the impact to state finances resulting from the COVID-19 crisis, the Council respectfully requests that the immediacy and rationale behind its creation be kept in mind when deciding whether or not to actually implement any future budget cuts.

The Council also requests that the Texas.gov fees, which in the Council's case amounts to \$135,244, be excluded from the appropriations total used to calculate the Council's 5% budget reduction plan. While the inclusion of Texas.gov fees makes sense in terms of ensuring that all funds appropriated to or spent by an agency are reflected in the agency's budget, Texas.gov fees are more akin to pass-through funding and cannot be reallocated for any other purpose. As a result, agencies are required to make larger cuts to their budgets than would otherwise be necessary due to the inclusion of these non-discretionary funds.

333 Guadalupe, Suite 2-450, Austin, Texas 78701
(Phone) 512-305-7700, (Fax) 512-305-7701

The Texas Behavioral Health Executive Council is an equal opportunity employer and does not discriminate on the basis of race, color, religion, national origin, age, sex, disability or sexual orientation.

With that being said and in response to your May 20th directive, the Council hereby submits the following plan to accomplish a 5% reduction in the agency's budget for the 2020-21 biennium.

General Revenue related appropriations¹: \$4,614,925

Amount representing 5% reduction for the biennium²: \$230,746

5% reduction broken down by strategy:

Licensing Strategy: \$91,773

Enforcement Strategy: \$138,973

It should be noted that the budget cuts identified above include such things as temporary FTEs needed to ensure a successful launch of the agency. The temporary FTEs covered by the proposed cuts include a receptionist and two investigators. The receptionist is needed to assist with answering the numerous inquiries that are sure to follow a regulatory transition like that outlined in H.B. 1501, and the investigators are important to the Council's ability to investigate and resolve a backlog of over 1,250 cases currently pending at the Marriage and Family Therapy, Professional Counseling, and Social Work boards. In the event a 5% budget cut is ordered, the Council respectfully requests that the temporary FTE positions identified above be continued and remain available to the Council through the next biennium. This will provide the Council with an opportunity to fill those positions if it is able to secure funding through savings elsewhere in the agency's budget.

The aforementioned budget cuts also include travel expenses for in-person council and board meetings. The Council planned for up to 5 council meetings and 4 meetings per board during this first biennium. Following the proposed budget cuts, the Council's travel budget for meetings will be reduced to \$3,000 for council meetings and \$8,000 for board meetings. Budget cuts such as this will require either a significant reduction in the number of meetings held or greater reliance upon virtual meetings. The viability of the latter option will depend heavily upon whether the suspension of those portions of the Open Meetings Act that have taken place during the current COVID-19 crisis are made permanent.

Given the fledgling status of the Council and the importance of its mission – the regulation of essential behavioral health providers and social work practitioners – the Council again requests special consideration be given to its status as a new agency when deciding whether to actually implement the proposed budget cuts.

Should you have any questions or concerns regarding this plan, please do not hesitate to contact either myself or Jennifer Noack, the Chief Financial Officer for the Council.

Sincerely,

Darrel D. Spinks
Executive Director

¹ General Revenue related appropriations, less Texas.gov fees: \$4,479,681

² Amount representing 5% reduction for the biennium, without Texas.gov fees factored in: \$223,984

Cc: Daniela Fragoso, Budget Analyst *via email*
Legislative Budget Board
Robert E. Johnson Bldg., 5th Fl.
1501 N. Congress
Austin, Texas 78701

Chris Smith, Policy Analyst *via email*
OOG Budget and Policy Division

881.13 Conduct and Decorum

Rodney Smith



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Rodney Smith <rodney_e_smith@hotmail.com>

Mon, May 18, 2020 at 8:50 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Cc: "rodney_e_smith@outlook.com" <rodney_e_smith@outlook.com>

§881.13. Conduct and Decorum. (Would strike all three provisions)

~~(a) Persons having business with or interacting with the Council, member boards, or agency staff shall conduct themselves with proper dignity, courtesy, and respect. Disorderly or disruptive conduct will not be tolerated. (This does not define "dignity, courtesy, and respect. All of which, can vary by cultural orientation. This is too vague)~~

~~(b) The presiding officers for the Council and member boards may, in their own discretion, exclude from a meeting or proceeding, a person who, with intent to prevent or disrupt an agency meeting or proceeding, obstructs or interferes with the meeting or proceeding by physical action or verbal utterance. A person excluded under this rule may be excluded for the remainder of the meeting or proceeding or for a shorter period of time as is deemed just and reasonable by the presiding officer. (This restricts a citizen's right to participate based on undefined terms)~~

~~(c) Conduct or language directed at agency officials or staff by applicants or licensees that a reasonable person would find abusive or threatening is considered unprofessional conduct and may serve as grounds for a Council-initiated complaint and disciplinary action. (Too much discretion to act based on an undefined criteria)~~

§882.26. Authorized Practice of Psychology Without a License.

(a) Notwithstanding Rule §882.23 of the chapter, the activities or services described in §501.004 of the Psychologists' Licensing Act are exempt from the Council's jurisdiction and do not require a license.

(b) The activity or service of a post-doctoral fellow or resident in psychology is exempt from the Council's jurisdiction pursuant to §501.004(a)(2) of the Psychologists' Licensing Act if all of the following criteria are met:

(1) The person is enrolled in a formal post-doctoral program that is:

(A) accredited by the American Psychological Association (APA) or is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or

(B) substantially equivalent to a program described in subparagraph (A) of this paragraph ;

(2) The activities or services take place under qualified supervision and are part of the formal post-doctoral program; and

(3) The person is designated as a psychological intern or trainee, or by another title that clearly indicates the person's training status.

(c) A formal post-doctoral program which meets the following criteria will be considered substantially equivalent to an APA accredited or APPIC member program:

(1) An organized experience with a planned and programmed sequence of supervised training experiences.

(2) A designated psychologist responsible for the program who possesses expertise or competence in the program's area.

(3) ~~Two or more~~ At least one licensed psychologists on staff, at least one designated as supervisor with expertise in area of practice. A designated supervisor may be the only psychologist on staff. (Having at least two psychologists on staff guarantees no greater learning than one. Improves access to healthcare for citizens if an internship can occur in a program that only has one supervisor on staff and that person may supervise post-doctoral training through creating opportunity for more internships. It does not eliminate the need for the training program to be formal. As originally written, this limits opportunities for post-doctoral training)

(4) A minimum of 2 hours per week of face-to-face supervision. (effective supervision can occur through the use of technology assisted interactions)

The increased costs are of concern: The council is raising the cost across all licensees to cover costs generated specifically by the Psychology Board. The Psychology specific expenses should stay contained within those licensees.

This proposed rule will increase application fees for the following license types: Licensed Baccalaureate Social Worker (LBSW) and Licensed Master Social Worker (LMSW) applications will increase by \$29; Licensed Clinical Social Worker (LCSW) applications will increase by \$29; Social Worker supervisor status applications will increase by \$30; initial Licensed Marriage and Family Therapist (LMFT) associate applications will increase by \$29; LMFT by endorsement applications will increase by \$31; LMFT supervisor status applications will increase by \$30; Licensed Professional Counselor (LPC), LPC intern, and provisional license applications will increase by \$31; and LPC supervisor status applications will decrease by \$50. This proposed rule will increase renewal fees for the following license types: LBSW and LMSW renewal applications will increase by \$61; LMSW advanced practitioner and LCSW renewal applications will increase by \$63; LMFT and LMFT associate renewal applications will increase by \$11; LPC renewal applications will increase by \$41; LPC supervisor status renewal applications will decrease by \$50; and Licensed Specialist in School Psychology renewal applications will increase by \$21. This proposed rule will create a new fee for the renewal of supervisor status for social workers which will be \$50.

 **BHEC .docx**
15K

881.14 Impartiality and Non-discrimination

Jan Friese, TCA ED (2)



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment on Proposed BHEC Rules

2 messages

Thu, May 21, 2020 at 8:59 PM

Jan Friese <Jan@txca.org>

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

Cc: "Will Francis - National Association of Social Workers/Texas Chapter (WFrancis@naswtx.org)" <WFrancis@naswtx.org>, Tris Castaneda <tcastaneda@longbow-partners.com>, "Mark Hanna (mhanna@markjhanna.com)"

<mhanna@markjhanna.com>, TPA Executive Director <jessica@texaspsyc.org>

Thank you for the opportunity to comment on the Texas Behavioral Health Executive Council proposed rules. I am submitting the attached letter on behalf of the National Association of Social Workers, Texas Chapter; the Texas Association for Marriage and Family Therapy; the Texas Counseling Association; the Texas Psychological Association; and the Texas Society for Clinical Social Work. It reflects our collective comments on the rules published in the April 24th issue of the *Texas Register*.

We appreciate the opportunity to work with you on the successful launch of BHEC and appreciate your consideration of these suggested modifications to the published rules.

Jan Friese

Executive Director

Texas Counseling Association

www.txca.org

512-472-3403, ext 11

TCA: Professional Counselors committed to advocacy, leadership and the promotion of professional excellence.

Renew or Join Today!



TCA leads, educates and advocates to advance the counseling profession, to increase access to professional counselors, and to promote wellness.



TexasBehavioralHealthExecutiveCouncil_ProposedRules_PublicComment_Behavioral Health Coalition_05.21.20.pdf

271K



Texas Society for Clinical Social Work



May 15, 2020

Coalition Comments on Texas Behavioral Health Executive Council DRAFT RULES

The mental health professional associations listed above represent Licensed Marriage and Family Therapists, Licensed Professional Counselors, Psychologists and Social Workers. The comments herein reflect our collective efforts to ensure the successful launch and functioning of the newly created Texas Behavioral Health Executive Council (BHEC).

We appreciate the legislative leadership and thoughtful emphasis on strengthening the mental health infrastructure in Texas and applaud the many hours of implementation work in connection with establishing a well-functioning and responsive BHEC. BHEC is an innovative strategy to create operational efficiencies while maintaining the integrity of the respective member boards' appropriate regulatory authority over what makes each mental health professional licenses unique. The regulatory authority delegated to BHEC is explicitly limited to establishing operational efficiencies and ensuring that any rule promulgated by a member board does not violate federal antitrust laws by limiting competition or impacting prices charged by persons engaged in a profession or business the executive council regulates. This ensures active state supervision while protecting the state's sovereign immunity.

Our associations appreciate the opportunity to participate both informally and formally in the process to adopt the rules that will govern BHEC's operating procedures and relationship with our respective licensing boards. Many of the proposed rules reflect the comments and recommendations delivered by us at your last meeting, but there are additional rules we would respectfully submit for your consideration, such as those allowing for emergency licenses, that reflect the current health crisis and should provide for a much swifter state response in the future.

We welcome your favorable consideration and encourage the agency to adopt the language recommendations listed below to ensure the rules as finally adopted are consistent with Chapter 507 of the Texas Occupations Code, as well as current and best practices.

Applications and Licensure

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

- (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: One of the key features contemplated by the Legislature in creating BHEC is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report

will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and

- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~
- (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- (fh) An individual practicing under an emergency temporary license must:
 - (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. The published language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested new language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12

Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. BHEC does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

General Provisions

SUBCHAPTER A – GENERAL PROVISIONS: Add a new §881.14 as follows:

§881.14 Impartiality and Non-discrimination

(a) The BHEC board members will make decisions in the discharge of its statutory authority without regard to a person's age, race, religion, ethnicity, sex, gender, affectional orientation, disability, national origin, or genetic information.

(b) Any BHEC board member who is unable to be impartial in the determination of disciplinary action against a licensee or who is determined to have a conflict of interest as set forth in §881.5 will declare this to the board and will not participate in any board proceedings involving that licensee.

(c) A person needing accommodations under the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) in order to access BHEC board services must request reasonable accommodations in writing and may be required to provide verification of the person's disability and recommendations for appropriate accommodations from a medical, mental health, rehabilitation, or educational professional or specialist qualified to make such recommendations.

Rationale: Each of the member boards housed at BHEC have similar language currently in their rules. It appears that due to the role BHEC has in issuing licenses and administering the complaint process, those specific rules are being removed as the individual member boards propose rules changes to align with HB 1501 and the creation of BHEC. These protections, however, should be maintained by BHEC. We anticipate that the omission of this important language is an oversight since these rules were developed prior to the rule reviews undertaken by the individual member boards.

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the

Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) Member boards must submit a new draft rule or rule change to the Council for consideration by submitting a draft of the rule with any deletions crossed through and additions underlined. The draft must also contain each of the notice components required in a preamble (e.g. §2001.024 of the Government Code) when proposing a new rule or rule change to the Council, member boards must also submit any information or comments received from the public in connection with the proposed rule. The Council shall limit its review of proposed rules to questions regarding anticompetitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by BHEC only for anti-competitive impacts, administrative consistency and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. The words “must also” implies that the authority of BHEC to review member board rules is broader than statutorily allowed. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

CONTACTS

Will Francis, Executive Director

National Association of Social Workers – Texas Chapter

(512) 474-1454

wfrancis.naswtx@socialworkers.org

Tris Castaneda

Texas Association for Marriage and Family Therapy

(512) 320-9933

tcastaneda@longbow-partners.com

Jan Friese, Executive Director

Texas Counseling Association

(512) 472-3403

Jan@txca.org

Jessica Magee, Executive Director

Texas Psychological Association

(512) 528-8400

jessica@texaspsyc.org

Mark Hanna

Texas Society for Clinical Social Work

(512) 477-6200

mhanna@markihanna.com



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment 45 TexReg 2640 BHEC Proposed Rules

2 messages

Jan Friese <Jan@txca.org>

Mon, May 25, 2020 at 4:59 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

Cc: Michael Moyer <mmoyer64@yahoo.com>

Thank you for your consideration of the attached comments, submitted in addition to the comments TCA submitted in collaboration with the Behavioral Health Coalition on May 22, 2020.

Please contact me at 512-786-6806 with any questions.

Stay Healthy! Stay Happy! Stay Connected!

Jan Friese

Executive Director

Texas Counseling Association

www.txca.org

512-472-3403, ext 11

TCA: Professional Counselors committed to advocacy, leadership and the promotion of professional excellence.

Renew or Join Today!



TCA leads, educates and advocates to advance the counseling profession, to increase access to professional counselors, and to promote wellness.

 **BHEC_Comments on Proposed Rules_TexasCounselingAssociation_05.2020.pdf**

164K

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:59 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Texas Counseling Association
1210 San Antonio, Suite 200
Austin, TX 78701
www.txca.org

Texas Behavioral Health Executive Council Proposed Rules (45 TexReg 2640)

Comments submitted by Jan Friese, Executive Director, Texas Counseling Association
May 24, 2020

The Texas Counseling Association (TCA) respectfully submits the following comments on the proposed rules for the Texas Behavioral Health Executive Council (BHEC) as published on April 24, 2020 in 45TexReg2640.

Managing the creation of new rules for a new agency while amending the rules of the member boards housed there is a monumental task. TCA thanks the members and staff of BHEC and the individual boards for their hard work and due diligence.

TCA respectfully requests – in addition to the comments submitted through the Behavioral Health Coalition – consideration of the following amendments. These proposals address what we expect is the unintentional omission of rules regarding non-discrimination, as well as the opportunity for engagement by the member boards on petitions for rulemaking related to licensure, scope of practice, standards of care and ethical practice, as well as CE requirements.

Impartiality and Non-discrimination: Add a new Section 881.14

Three of the four member boards' rules (§681.13(a); §781.312(a); §801.15(a)) include specific language that prohibits discrimination by those boards in licensing and disciplinary decisions. Section 881.5 of the proposed BHEC rules addresses the process for impartiality and the disclosure of potential conflicts of interest in matters that come before the Council. The proposed rules do not include language to specifically address non-discrimination. The non-discrimination language is being removed from the member boards' rules making its inclusion here essential.

TCA recommends a new §881.14 be added to Subchapter A – General Provisions as follows:

§881.14. Impartiality and Non-discrimination

(a) The Council will make decisions in the discharge of its statutory authority without regard to person's age, race, religion, ethnicity, sex, gender, affectional orientation, disability, national origin, or genetic information.

(b) A person needing accommodations under the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) in order to access BHEC board services must request reasonable accommodations in writing and may be required to provide verification of the person's disability and recommendations for appropriate accommodations from a medical, mental health, rehabilitation, or educational professional or specialist qualified to make such recommendations.

Petition for Rulemaking – Amend §881.21(c)

Proposed rule changes for each member board removes the opportunity to submit rulemaking petitions directly to them. Petitions for rulemaking will instead be processed through BHEC. Given that only member boards can adopt rules on license qualification, scope of practice, standards of care, ethical practices and CE requirements,

TCA recommends that petitions for rulemaking relating to those specific items be referred to the appropriate member board for review and consideration prior to any final action by the Council.

TCA recommends an amendment to §881.21(c) as follows

§881.21. Petition for Rulemaking.

(a) Any interested person may petition for rulemaking in accordance with §2001.021 of the Government Code by submitting to the Council a written request for the adoption of a rule or rule change. The written request must contain a return mailing address for the agency's response.

(b) The written request must, at a minimum, set forth or identify the rule the petitioner wants the Council to adopt or change, reasons why the petitioner believes the requested rulemaking is necessary, and include a copy of the proposed rule or any proposed changes with deletions crossed through and additions underlined. Additionally, the written request must affirmatively show that the requestor qualifies as an interested person under this rule. Requests which do not affirmatively show that the requestor qualifies as an interested person under this rule may be denied.

(c) The written request should also address the economic cost to persons required to comply with the rule, the effects of the rule on small or micro-businesses or rural communities, and the impact the rule would have on local employment or economies, if such information can be derived from available sources without undue cost or burden.

(d) Petitions for rulemaking that relate to qualifications for licensure, scope of practice, standards of care, ethical practices or CE requirements will be forwarded by the Executive Director to the appropriate member board for review and consideration. The Council will respond to a written request for adoption of a rule from an interested person in accordance with §2001.021 of the Government Code.

(e) The term "interested person" as used in this rule, shall have the same meaning as that assigned by §2001.021(d) of the Government Code. Additionally, a person who submits a petition under this rule must affirm that they qualify as an interested person in the petition. Petitions which do not contain such an affirmation may be denied.

Thank you for your hard work and consideration of these comments. TCA welcomes the opportunity to work with you for a successful launch of this innovative agency.

881.20 Rulemaking

Rosalva Gonzales, M.S.
Sarah Stillwell, LPC
Penni Patterson, LCSW
Melissa Sutherland, LPC-S
Jenifer McLuskie, LMSW
Rebecca Cole, LCSW
Domenica Domingue
Susan Harnen, LCSW
Jennifer Canning
Gianna Viola, LCSW-S
Nancy Jo Long
Haley Williams
MaryAnn Kildebeck
Rose Mary Rodriguez
Charles Lavine, LPC
Ann Marie Haney, LCSW
Cheryl Jones, LMSW
Shannon Huggins, LCSW-S
Anatasia Deeter, LCSW-S
Carol Ann Ross, LMSW
Claire Woll
Virginia D. Manuel, LMSW-AP
Monica McCarthy
Pat Gleason-Wynn, Ph.D., LCSW
Rebecca Lincoln, LPC-S
Jan Friese, TCA ED
Jodie Elder, Ph.D., LPC-S, LMFT

Katrina Daneshvar, MA
Kathleen Moore, LPC-S
Melissa Dilworth
Judy Jarratt, Ed.D., LPC
Jennifer Vasquez, LCSW
Ginger Chun
Naomi Freifreich
Laurie Stephens, LMSW-IPR
Tiffany Frias, LPC
Natalie Beck
Scott Bendle, M.Ed., LPC-S
Diane M. Benefiel
Jillian Bissar, LCSW
Elizabeth Hummert, LCSW
Emma Taylor, LCSW
Trey Johnson, LMSW
Linda Knewtson, LCSW
Angie Novak, LPC Intern
Ronald W. Prieto, LCSW
Rachel Slaymaker
Tara Ayala, LCSW
Anita Franz, LCSW
Lynn Panepinto, LMSW
Rolland Fellows, Ph.D.
Joseph Hartsoe
Keiko Davenport, AAMFT



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Rosalva Gonzalez <RGonzalez@pasadenaisd.org>

Fri, May 1, 2020 at 3:47 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

§881.20 Rulemaking by Executive Council

The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must also~~ may only review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance.

As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Thank you.

*Rosalva Gonzalez, M.S., LPC
Counselor
Genoa Elementary
Phone: (713) 740 -0592 ext. 22110*

This email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to whom they are addressed. If you have received this email in error please notify the system manager. Please note that any views or opinions presented in this email are solely those of the author and do not necessarily represent those of Pasadena I.S.D. Finally, the recipient should check this email and any attachments for the presence of viruses. The company accepts no liability for any damage caused by any virus transmitted by this email.

Pasadena ISD is an equal opportunity employer and provides equal access to all students <http://www1.pasadenaisd.org/cms/One.aspx?portalId=80772&pageId=494145>

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 1, 2020 at 6:29 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments/suggestions for proposed BHEC rules

2 messages

Katrina Daneshvar <kdaneshvar@harmonytx.org>

Fri, May 1, 2020 at 2:47 PM

To: open.records@tsbep.texas.gov

I would like the comments/suggestions listed in the attached document to be thoughtfully considered for the proposed BHEC rules.

Respectfully,

Katrina Daneshvar, MA, LPC, NCC | District Behavioral Counselor | Houston North
(281) 444-1555 | 3203 North Sam Houston Pkwy W. Houston, TX 77038

Join Our Team: Apply Today



Harmony Core Values: #CharacterMatters, #DedicatedStaff, #WorkingTogether, #HighExpectations, #STEMforAll

DISCLAIMER: This e-mail transmission, and any documents, files or previous e-mail messages attached to it, may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this message is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify this sender.

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 1, 2020 at 6:30 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--
Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on proposed rules

2 messages

Sarah Stillwell <sarahstillwell88@gmail.com>

Fri, May 1, 2020 at 2:43 PM

To: open.records@tsbep.texas.gov

Please see the attachment.

--

Thank You,

Sarah Stillwell, LPC

Pronouns: She/Her/Hers

Dallas Counseling and Treatment Center

Gender-Affirming Mental Health Services, Dallas Resource Center

TAMU-Commerce Doctoral Student

Senator, Texas Counselors for Social Justice

Emerging Leader, Texas Association of LGBT Issues in Counseling

Welcoming
& Affirming

 Comments_BHEC Proposed Rules_04.24.20.pdf
127K**Brenda Skiff** <brenda@tsbep.state.tx.us>

Fri, May 1, 2020 at 6:30 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

 Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (b) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (d) To be eligible for an emergency temporary license, an applicant must:

 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Kathleen Moore <kmoorelpcs@gmail.com>

Sun, May 3, 2020 at 12:42 PM

To: open.records@tsbep.texas.gov

Please consider these attached suggestions.

Thank you.

Kathleen Moore LPC-S

President of the Bluebonnet Counseling Association of Texas Counseling Association

 **Comments_BHEC Proposed Rules_04.24.20 (2) (3).pdf**
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Sun, May 3, 2020 at 4:34 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

 **Comments_BHEC Proposed Rules_04.24.20 (2) (3).pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20

Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12

Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9.

Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not ~~Current~~ disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:

 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code 5418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Penni Patterson <pennipatterson@gmail.com>

Mon, May 4, 2020 at 9:20 AM

To: open.records@tsbep.texas.gov

Please implement the suggested changes to the rules on establishing BHEC.

Suggested Comments on BHEC Rules

• General Provisions

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

• Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

• Applications and Licensure

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not

provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.



SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE §882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

- (1) the Governor declares a disaster under Government Code §418.014; and
- (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

- (1) the Governor declares a disaster under Government Code §418.014;
- (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
- (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
- (3) the applicant meets the requirements set forth herein below.

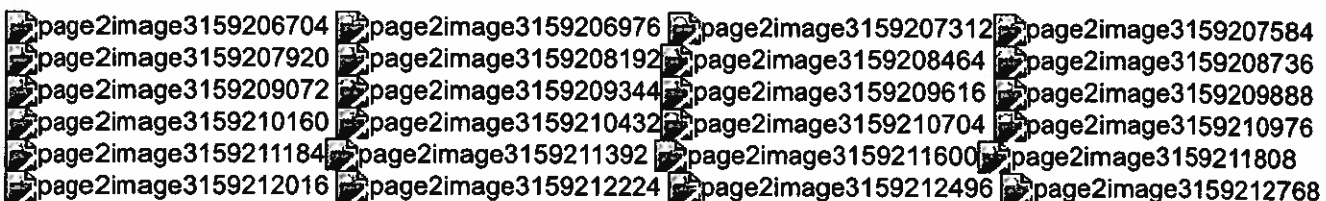
(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

- (1) submit an application in the form prescribed by the Council; and
- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.



page2image3159213040
 page2image3159213312
 page2image3159213584
 page2image3159213856
page2image3159214128
 page2image3159214400
 page2image3159214672
 page2image3159214944

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

page3image3160665024
 page3image3160665232
 page3image3160665440
 page3image3160665712
page3image3160666048

• **Rationale:**

onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Thank you for the work you are doing during this time of emergency and always.

Sincerely,

Penni Patterson, LCSW

Penni Patterson, LCSW, MBA

This email and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to which they are addressed. This communication may contain material protected by HIPAA legislation (45 CFR, Parts 160 & 164). If you are not the intended recipient or the person responsible for delivering this email to the intended recipient, be advised that you have received this email in error and that any use, dissemination, forwarding, printing or copying of this email is strictly prohibited. If you have received this email in error, please notify the sender by replying to this email and then delete the email from your computer.

Brenda Skiff <brenda@tsbep.state.tx.us>
 To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 4, 2020 at 10:50 AM

Brenda Skiff
 Public Information Officer/
 Legal Assistant
 Texas State Board of Examiners of Psychologists
 333 Guadalupe, Ste 2-450
 Austin, TX 78701
 512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

comments on proposed rules 22TAC Chapter 881

2 messages

Melissa Dilworth <melissadartherapist@gmail.com>

Mon, May 4, 2020 at 1:29 PM

To: open.records@tsbep.texas.gov

I support the following comments
Melissa Dilworth LPC-AT

Suggested Comments on BHEC Rules • General Provisions SUBCHAPTER B – RULEMAKING §881.20 Rulemaking by Executive Council (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may onlyalso review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns. (d) (pick up from notebook) Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent. • Complaints and Enforcement SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition. (c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule. Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays. • Applications and Licensure SUBCHAPTER A – LICENSE APPLICATIONS §882.9. Established Application Processing Time (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis. Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category. SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE §882.70. Emergency Temporary License. (a) For purposes of this section, the term “good standing” means there is not current disciplinary action on the out-of-state license, certification, or registration. (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if: (1) the Governor declares a disaster under Government Code §418.014; and (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state. (c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if: (1) the Governor declares a disaster under Government Code §418.014; (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster; (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and (3) the applicant meets the requirements set forth herein below. (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first. (ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor. (df) To be eligible for an emergency temporary license, an applicant must: (1) submit an application in the form prescribed by the Council; and (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing. (e) For purposes of subsection (d) of this section, the term “good standing” means there is not current disciplinary action on that out-of-state license, certification, or registration. (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date. (fh) An individual practicing under an emergency temporary license must: (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the

license number and instructions on how to verify the status of a license when initiating services with a patient or client; (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and (3) comply with all other applicable Council rules. (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license. • Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Melissa Dilworth <melissadarttherapist@gmail.com>
To: open.records@tsbep.texas.gov

Mon, May 4, 2020 at 1:30 PM

[Quoted text hidden]

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20

Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12

Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9.

Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:

 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Melissa Sutherland <sutherlandlpc@gmail.com>

Mon, May 4, 2020 at 4:30 PM

To: open.records@tsbep.texas.gov

Dear BHEC Representative,

I am a Licensed Professional Counselor Supervisor and I appreciate all of the hard work that went into the proposed new rules published by BHEC on April 24, 2020. I understand comments and suggestions are being taken at this time. I would like to submit suggestions for the new rules. I have attached a copy of the rules that includes the suggestions I would like to have considered. Thank you for your time and consideration. I look forward to working with BHEC in the near future.

Respectfully,
Melissa L. Sutherland, LPC-S

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 4, 2020 at 6:25 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--
Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Jarratt, Judy <Judy.Jarratt@ttuhsc.edu>

Tue, May 5, 2020 at 12:06 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

As a member of the Texas Counseling Association I wish to submit the following recommendations.

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may onlyalso review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS**§882.9. Established Application Processing Time**

- (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE**§882.70. Emergency Temporary License.**

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice

marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Dr. Judy Jarratt, Ed.D., LPC, CSC

Senior Director for CATR (Campus Alliance Telehealth Resources)



Mailing - 3601 4th Street, STOP 7110, 79430

Phone: 8006-743-1887

judy.jarratt@ttuhsc.edu

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 5, 2020 at 1:59 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jenifer McLuskie <jmcluskie@sbcglobal.net>

Tue, May 5, 2020 at 4:10 PM

Reply-To: Jenifer McLuskie <jmcluskie@sbcglobal.net>

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Jenifer McLuskie I am a **licensed social worker (LMSW)** and I am a supervisor of four caseworkers who all work within social services to help undocumented children who have left immigration detention facilities and one caseworker who assists families who have exited family or other immigration detention facilities as they seek asylum in the United States.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jenifer McLuskie, LMSW (Texas) and LGSW (District of Columbia)

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide

adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b)

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Subject line: Comments on Proposed Rules 227AC Chapter 881.

appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Jenifer McLuskie

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jennifer Vasquez <yogajena@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 4:11 PM

My name is Jennifer Vasquez and I am a licensed clinical social worker and PhD social work student. I am a full time Lecturer at Texas State School of Social Work and part time Lecturer at Lady of the Lake University School of Social Work.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Vasquez, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(g i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Jennifer Vasquez, LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Rebecca Cole <rebecca@rebeccacole.net>

Tue, May 5, 2020 at 4:13 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good Afternoon,

My name is Rebecca Cole and I am a **licensed clinical social worker**. I am a licensed clinical social worker for the Harris Center, the local mental health authority for Harris County, Texas. I provide crisis intervention paired with a licensed peace officer with Houston Police Department. I am the only social worker on my team. I take pride in my ability to provide this service to my community in my community and represent the social work field as well.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Rebecca Cole, LCSW

281-799-9416

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- ~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
- (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
- (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- ~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- ~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- ~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:
- (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.
- ~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.
- ~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- ~~(fh)~~ An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed § 881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Ginger Chun <gmainchun@gmail.com>

Tue, May 5, 2020 at 4:43 PM

To: open.records@tsbep.texas.gov

My name is Ginger Chun and I am a student working on a master's degree in social work. I am already working in the social work field providing case management and mentorship to individuals experiencing homelessness as well as to families and individuals experiencing hardship.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ginger Chun

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014; and

~~(2)~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014;

~~(2)~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

~

Ginger Chun
210-875-1392

"Be kind, it costs nothing"

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules

2 messages

Domenica (Domino) Domingue <pretty_domino@yahoo.com>

Tue, May 5, 2020 at 4:49 PM

To: open.records@tsbep.texas.gov

My name is Domenica Domingue and I am a **licensed social worker/social work student**. I work with dialysis patients in an outpatient setting as an LMSW providing patients with ways to cope with their normal and assist with getting insurance and transplants.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Domenica Domingue

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014; and

~~(2)~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014;

~~(2)~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection ~~(d)~~ of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

NAOMI FREIREICH <naomifreireich@yahoo.com>

Tue, May 5, 2020 at 5:04 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Naomi Freireich and I am a **licensed social worker. I have a private practice in Austin and work with adults and adolescents struggling with mental health issues.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is

broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:51 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Harnden, Susan C <susan.harnden@austin.utexas.edu>
To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Tue, May 5, 2020 at 5:51 PM

ADVOCACY ALERT – Improve the Licensing Board!**Submit Comments before May 22, 2020**

The Texas Behavioral Health Executive Council (BHEC) established in **HB 1501** (86R) will become fully operational on September 1, 2020. All behavioral health licensing boards – including the Texas State Board of Social Work Examiners – will be housed at BHEC which will be responsible for the administrative management of each board, including processing licenses, managing complaints, and overall operations.

The proposed rules are extensive because they establish all functions for a brand new state agency. It is essential that these rules be carefully vetted to ensure they align with the legislative intent of HB 1501 and preserve the authority of each independent licensing board housed at BHEC.

The National Association of Social Workers - Texas (NASW-TX) along with the Texas Society for Clinical Social Work (TSCSW), the Texas Counseling Association (TCA), the Texas Association of Marriage and Family Therapists (TAMFT) and the Texas Psychological Association (TPA), was provided a preview of the proposed rules and an opportunity to provide stakeholder input at the December BHEC meeting. Many of our suggestions were adopted and are reflected in the published rules. **However, several important revisions were not made, including licensure fees.**

NASW/TX, in partnership with TCA, TSCSW, TAMFT and TPA, did a thorough review of the published rules and will be submitting a unified statement requesting additional, important changes.

We need your help!

A large volume of comments is needed. It is essential that all licensees review the proposed rules and submit comments.

The proposed rules were published in the April 24, 2020 issue of the Texas Register.

Please feel free to use **the email template** at the end of this email as well as any other revisions that you identify.

My name is Susan Harnden, I am a Licensed Clinical Social Worker at the University of Texas at Austin Employee Assistance Program. I serve the employees of the university.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that

BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.

2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Susan Harnden, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(gi)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or

ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Susan Harnden, LCSW, CEAP | Director, HealthPoint: Balance & Well-being in Work & Life | pronouns: she/her | The University of Texas at Austin | UTA 1616 Guadalupe 2.304 | 512.471.3366 | Direct Line 471-9105

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:52 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments

2 messages

Laurie Stephens <lasstephens61@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 6:39 PM

My name is Laurie Stephens, LMSW-IPR and I am a hospice social worker in the Houston area.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Laurie Stephens, LMSW-IPR

TX 28933

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)(g)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC draft rules

2 messages

Jen C <jennifercanning1979@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 6:50 PM

My name is Jennifer Canning and I am a social work student.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Canning

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(g)(i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC rules

2 messages

Tiffany Frias <tiff.frias@gmail.com>

Tue, May 5, 2020 at 6:55 PM

To: open.records@tsbep.texas.gov

Please consider making the following changes to the proposed rules for the Texas Behavioral Health Executive Council

General Provisions SUBCHAPTER B – RULEMAKING §881.20 Rulemaking by Executive Council (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns. (d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent. • Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition. (c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule. **Rationale:** As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays. • Applications and Licensure

SUBCHAPTER A – LICENSE APPLICATIONS §882.9. Established Application Processing Time (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis. **Rationale:** Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category. **SUBCHAPTER G – EMERGENCY**

TEMPORARY LICENSE §882.70. Emergency Temporary License. (a) For purposes of this section, the term “good standing” means there is not current disciplinary action on the out-of-state license, certification, or registration. (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if: (1) the Governor declares a disaster under Government Code §418.014; and (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state. (c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if: (1) the Governor declares a disaster under Government Code §418.014; (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster; (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and (3) the applicant meets the requirements set forth herein below. (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first. (ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor. (df) To be eligible for an emergency temporary license, an applicant must: (1) submit an application in the form prescribed by the Council; and (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing. (e) For purposes of subsection (d) of this section, the term “good standing” means there is not current disciplinary action on that out-of-state license, certification, or registration. (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must

submit a renewal application on a board-approved form on or before the license expiration date. (fh) An individual practicing under an emergency temporary license must: (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client; (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and (3) comply with all other applicable Council rules. (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license. • Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

--
Tiffany Frias, LPC
210-396-1944
blackbirdcounselingandwellness.com

Because we cannot guarantee confidential and timely communication by email, it is the general practice of Blackbird Counseling & Wellness, PLLC not to communicate with clients by email. If you choose to email this address, please be aware that internet email is not a secure medium and others may be able to read your messages and my responses.



Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:55 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Gianna Viola <giannaviola@gmail.com>
 To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 7:12 PM

My name is Gianna Viola and I am a **licensed social worker (LCSW-S)** in Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Gianna Viola, LCSW-S, CGP

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(e)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881

Gianna Viola, LCSW-S, CGP

Viola Therapy, PLLC

Psychotherapy & Clinical Supervision

512.942.7798

giannaviola.com

Please note that email is not considered a secure medium; confidentiality cannot be ensured.

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:55 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Natalie Beck <natalie.d.beck@gmail.com>

Tue, May 5, 2020 at 7:22 PM

To: open.records@tsbep.texas.gov

Good afternoon,

My name is Natalie Beck and I am a Licensed Clinical Social Worker and Board-Approved Supervisor. I am a social work professor at a university here in Austin.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Natalie Beck

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

NJ Long <tjnjl@long@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 12:16 AM

Hello,

My name is Nancy Jo Long and I have a masters in social work and I am a candidate for licensure in the State of Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Nancy Jo Long

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE**§882.70. Emergency Temporary License.**

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out of state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(gi)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Scott Bendle <scott.bendle.lpc@gmail.com>

Wed, May 6, 2020 at 8:00 AM

To: open.records@tsbep.texas.gov

Good day!

I would like to endorse the proposed changes suggested by the Texas Counseling Association viewable at the following link:

TCA Suggested Changes to Proposed Rules 22TAC Chapter 881

If you have any questions, please feel free to contact me.
Thank you!

Sincerely,
Scott Bendle, MEd, LPC-S
(210) 427-0149

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (~~a~~)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (~~b~~)d An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (~~e~~)e An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (~~d~~)f To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Haley Williams <hbwilliams93@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 9:04 AM

Hello,

My name is Haley Williams and I am a licensed social worker. I work with college students, particularly those with learning disabilities and mental health issues.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Haley Williams

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881.

Haley Williams

Texas Ex | Class of 2016

Master's of Social Work, University of Texas, 2018

Phone: 913-775-0512

hbwilliams93@gmail.com

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Diane Benefiel <dbenefiel@menninger.edu>

Wed, May 6, 2020 at 10:07 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To Whom It May Concern:

My name is Diane M. Benefiel and I am a licensed clinical social worker with supervision. I work at a psychiatric hospital in an inpatient unit. I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.

2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Diane M. Benefiel

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

• Rationale: One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE**§882.70. Emergency Temporary License.**

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

- (1) the Governor declares a disaster under Government Code §418.014; and
- (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

- (1) the Governor declares a disaster under Government Code §418.014;
- (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster
- (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
- (3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

- (1) submit an application in the form prescribed by the Council; and
- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Diane M. Benefiel, LCSW, LCDC-I
Sr. Social Worker/Addictions Counselor
The Menninger Clinic



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

MaryAnn Kildebeck <MaryAnn@kildebeck.us>

Wed, May 6, 2020 at 10:29 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Cc: MaryAnn Kildebeck <MaryAnn@kildebeck.us>

My name is MaryAnn Brooks Kildebeck, LCSW, and I am a **licensed social worker/social work student**.
Optional: provide details about your job position and the clients you serve.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(1) the Governor declares a disaster under Government Code §418.014; and

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(3) the applicant meets the requirements set forth herein below.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(1) submit an application in the form prescribed by the Council; and

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(fh) An individual practicing under an emergency temporary license must:

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

... .. www.mail.ru/021b-5c0f873f7d&view=nt&search=all&normthid=thread-f%3A1665955493527633240&simpl=msg-f%3A166595549352... 2/4

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ *may* solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ *may* specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ *may only* ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881

MaryAnn Kildebeck, LCSW

Direct: 972-377-6400

Fax: 855-856-6484

1015 West Oak Street

Denton, TX 76201

(In the Historic District, so no signage is allowed. This is a two-story brown brick building with a red tile roof.)

8668 John Hickman Pkwy. #905

Frisco, TX 75035

(At the NE corner of John Hickman and Legendary Drive. It is the SECOND building east of Legendary Drive.)

PO Box 1647

Denton, TX 76201

HAVE ALL MAIL SENT HERE

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 10:38 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jillian Bissar <jillianbissar@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 12:31 PM

My name is Jillian Bissar, LCSW and I am a **licensed social worker/social work student**. I work with cancer patients at one of the top cancer hospitals in the country right here in the great state of Texas. Our patients are come from all over the country and world to receive care at our facility.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jillian Bissar, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) ~~For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) ~~the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) ~~An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.~~

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must may only also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments BHEC draft rules

2 messages

Rose Mary Rodriguez <rmrod87@yahoo.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 12:48 PM

My name is Rose Mary Rodriguez from El Paso, Texas, and I am a **Licensed Clinical Social Worker**. I have been working with the Las Palmas Kidney Transplant Center for the last 3 years serving patients who are being evaluated for a kidney transplant or have already received a transplant. I have 40 years post-graduate experience in the areas of vocational rehabilitation, medical social work, and school social work addressing individuals with special needs.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged. I also bring to your attention that social worker's salaries are not adequate so any increase in licensing rates impact the decisions of trained social workers to remain in the profession as opposed to entering another sector of employment for better pay.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely

Rose Mary Rodriguez, LCSW/ C-ASWCM

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide

adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b)

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments BHEC draft rules

appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 12:56 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Elizabeth Hummert <Elizabeth.Hummert@gpisd.org>
 To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Wed, May 6, 2020 at 3:34 PM

My name is Elizabeth Hummert and I am a Licensed Clinical Social Worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Elizabeth Hummert

LCSW - Supervisor #40267

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report

will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014; and

~~(2)~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014;

~~(2)~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881

proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Elizabeth "Liz" Hummert, LCSW, Clinical Supervisor

Student Mental Health and Safety Advisor

Grand Prairie ISD

972-522-7074



Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 6:39 PM

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments

5 messages

Charles Lavine <clavine1@att.net>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 12:53 PM

To Whom It May Concern:

Attached are my comments to proposed new rules under consideration by the Texas Behavioral Health Executive Council.

My proposed deletions are indicated by strikethroughs, and proposed additions and changes are indicated in red type.

I am a Licensed Professional Counselor (license # 13146), and a current member of the Texas Counseling Association (TCA). TCA is encouraging its members to read the proposed rules and offer comments.

Respectfully,

Charles Lavine, LPC.

 **Comments BHEC.pages**
354K

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 5, 2020 at 1:59 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

 **Comments BHEC.pages**
354K

Patrick Hyde <general.counsel@tsbep.state.tx.us>
To: Brenda Skiff <brenda@tsbep.state.tx.us>

Tue, May 5, 2020 at 4:06 PM

Brenda:

I wasn't able to view this guy's attachment were you? If not we can check with Pat to make sure we download it correctly.

Thanks,

Patrick Hyde
General Counsel
Texas State Board of Examiners of Psychologists
333 Guadalupe, Suite 2-450
Austin, Texas 78701
Tel.: 512-305-7700
Fax: 512-305-7701

general.counsel@tsbep.state.tx.us

NOTICE: This communication may be confidential and/or privileged under law, specifically including Rule 192 of the Texas Rules of Civil Procedure, Article V of the Texas Rules of Evidence, Section 501.205 of the Texas Occupations Code, and other applicable statutory, quasi-statutory, and common law authorities. Additionally, pursuant to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and court interpretations thereof, the information that is contained within this communication may not be subject to disclosure to the public and further may be protected from disclosure or production for other purposes. This information is intended for the exclusive use of the addressee or addressees named above. If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee name above), copying or the taking of any action because of this information is strictly prohibited. If you have received this information in error, please immediately notify me by telephone to arrange for the return of the document.

[Quoted text hidden]

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 7:09 AM

I couldn't either.

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]

Patrick Hyde <general.counsel@tsbep.state.tx.us>
To: Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:30 PM

Attached is a Word version of what was sent.

Patrick Hyde
General Counsel
Texas State Board of Examiners of Psychologists
333 Guadalupe, Suite 2-450
Austin, Texas 78701
Tel.: 512-305-7700
Fax: 512-305-7701
general.counsel@tsbep.state.tx.us

NOTICE: This communication may be confidential and/or privileged under law, specifically including Rule 192 of the Texas Rules of Civil Procedure, Article V of the Texas Rules of Evidence, Section 501.205 of the Texas Occupations Code, and other applicable statutory, quasi-statutory, and common law authorities. Additionally, pursuant to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and court interpretations thereof, the information that is contained within this communication may not be subject to disclosure to the public and further may be protected from disclosure or production for other purposes. This information is intended for the exclusive use of the addressee or addressees named above. If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee name above), copying or the taking of any action because of this information is strictly prohibited. If you have received this information in error, please immediately notify me by telephone to arrange for the return of the document.

[Quoted text hidden]

 **Comments BHEC.docx**
486K

Comments on BHEC Rules

• General Provisions

SUBCHAPTER B - RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

• Complaints and Enforcement

SUBCHAPTER B - INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

• Applications and Licensure

SUBCHAPTER A - LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G §882.70.

- EMERGENCY TEMPORARY LICENSE

Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)~~ (b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice

marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and~~

~~rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below. ~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ (f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction. ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ (h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- Rationale:

onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

The unprecedented severity and magnitude of the current outbreak has shed some light



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Taylor, Emma <Emma_Jones@baylor.edu>

Wed, May 6, 2020 at 4:14 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Emma Taylor and I am an LCSW. I work as a therapist for children and adolescents with chronic illnesses, and I am also a faculty member and lecturer in an MSW program.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Emma Taylor, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and

appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection ~~(d)~~ of this section, the term "good standing" means ~~there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ *may* solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ *may* specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Emma Taylor, LCSW

Lecturer

Diana R. Garland School of Social Work

Baylor University - Houston Extension

Email: emma_jones@baylor.edu

4100 S. Main St.
Houston, TX 77002

Cell Phone: 713-907-4616

She, her, hers

Confidentiality Notice: The documents accompanying this Email transmission contains confidential information belonging to the sender that is legally privileged. This information is intended only for the use of the individual or the entity named above. If you are not the intended recipient, you are hereby notified that any disclosures, copying, distribution or the taking of any action in reliance on the contents of the email information is strictly prohibited.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:01 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

3 messages

Ann Marie Haney <amhaney@live.com>

Wed, May 6, 2020 at 4:24 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good afternoon,

My name is Ann Marie Haney, and I am a licensed clinical social worker. I provide outpatient behavioral health services at Hope Clinic, a Federally Qualified Health Center in Waxahatchie, TX. We serve patients regardless of their ability to pay, providing increased access to care for our community.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ann Marie Haney, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

- a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for

each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) ~~_____ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) _____ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) _____ the Governor declares a disaster under Government Code §418.014; and~~

~~(2) _____ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) _____ the Governor declares a disaster under Government Code §418.014;

~~(2) _____ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) _____ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) _____ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Mary Jo Kraus <maryjoannekraus@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 5:32 PM

My name is Dr. Mary Joanne Kraus and I am a **licensed clinical social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

I would like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Dr. Mary J. Kraus, LCSW
19206 Huebner Rd. #104
San Antonio, TX 78258
(v) 706-247-3515
(f) 210-499-4956
www.mjkfamilytherapy.com
maryjoannekraus@gmail.com

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:02 AM

Brenda Skiff
Public Information Officer/
Legal Assistant



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Trey Johnson <ctreyjohn@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 9:15 PM

My name is Trey Johnson and I am a licensed master social worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Trey Johnson, LMSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(g)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Cheryl Jones <chcjones@gmail.com>
To: open.records@tsbep.texas.gov

Thu, May 7, 2020 at 7:36 AM

Good morning,

My name is Cheryl Jones, LMSW and I am a licensed social worker in Dallas working for a social service agency full time and a local hospital system on the weekends.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Cheryl Jones, LMSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- ~~(a)~~ (b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
- (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
- (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- ~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- ~~(e)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- ~~(d)~~ (f) To be eligible for an emergency temporary license, an applicant must:
- (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.
- ~~(e)~~ (g) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.
- (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- ~~(f)~~ (h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed § 881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:03 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Linda Knewton <LKnewton@menninger.edu>

Thu, May 7, 2020 at 9:03 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Linda Knewton and I am a licensed clinical social worker employed at The Menninger Clinic in Houston. We serve patients with psychiatric illness.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature is a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Linda Knewton, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. ~~These~~ figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional

counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) _____ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing

standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Linda Knewtson, LCSW-S

Social Worker

CPAS

The Menninger Clinic

12301 Main Street

Houston, TX 77035

lknewtson@menninger.edu

Phone: 713-275-5078

Fax: 713-275-5490



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Shannon Huggins <shannon@shannonhuggins.com>

Thu, May 7, 2020 at 11:49 AM

To: open.records@tsbep.texas.gov

To Whom It May Concern:

My name is Shannon Huggins and I am a licensed clinical social worker and supervisor in private practice where I treat children and families as well as adults with psychiatric illness. I appreciate being able to provide the following comments on the Texas Behavioral Executive Council (BHEC) draft rules. I want to use this opportunity to improve the licensing board to better serve all social workers in the state. We need an efficient and skilled board to function at its highest capacity to help social work professionals meet the many needs of Texans, especially during the time of COVID-19.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points.

1) BHEC Discretion re: Emergency License - COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing.

2) Licensing Rates - It is disappointing to see that our social work licensing rate has increased. Social workers already struggle with immense backlogs and delays with licensing applications and renewals. As rates have increased, board responsiveness to critical licensing needs has decreased. I ask that BHEC rules keep social work licensing rates unchanged.

Thank you for allowing me to provide feedback on the BHEC rules. I look forward to working together to improve board processes for social work licensure.

Sincerely,
Shannon Huggins, LCSW-S, BCD

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

- ~~(1)~~ the Governor declares a disaster under Government Code §418.014; and
- ~~(2)~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

- ~~(1)~~ the Governor declares a disaster under Government Code §418.014;
- ~~(2)~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

- (1) submit an application in the form prescribed by the Council; and
- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(gi)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

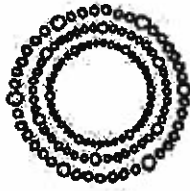
GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

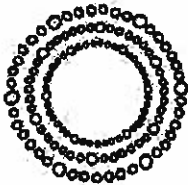
- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



SHANNONHUGGINS
LCSW-S·BCD

Psychotherapist and Board Approved Supervisor
Clinical Director Open City Psychotherapy
8133 Mesa Drive, Suite 104 Austin, TX 78759
Phone 512.538.0558 / Fax 512.538.0598
shannon@shannonhuggins.com / www.shannonhuggins.com

This email and its attachments may contain privileged and confidential information and/or protected health information (PHI) intended solely for the use of Shannon Huggins, LCSW-S, BCD and the recipient(s) named above. If you are not the recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any review, dissemination, distribution, printing, or copying of this email message and/or any attachments is strictly prohibited. If you have received this transmission in error, please notify the sender immediately at 512-538-0558 and permanently delete this email and any attachments.



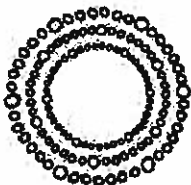
PastedGraphic-1.tiff
23K

SHANNONHUGGINS
LCSW-S·BCD

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 12:05 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



PastedGraphic-1.tiff
23K

SHANNONHUGGINS
LCSW-S·BCD



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on BHEC Rules

1 message

Angie Novak <angie.novak@psd.edu>

Thu, May 7, 2020 at 4:04 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To Whom it May Concern,

As a proud member of the Texas Counseling Association, I am very passionate about promoting professional counselors. Please consider my proposed comments in the attached document.
Our fellow Texans deserve access to mental health workers, especially when the mental health needs increase as the impact of this epidemic continues.

Best Regards,
Angela Novak LPC-Intern
Plano, Texas

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

- (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- (#h) An individual practicing under an emergency temporary license must:
- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.
- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Deeter, Anastasia L. <aldeeter@texaschildrens.org>
 To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Thu, May 7, 2020 at 11:33 AM

Good morning,

My name is Anastasia Deeter and I am a Licensed Clinical Social Worker (LCSW). For the past five years I have worked at Texas Children's Hospital providing services to children and families. In my role I often provide crisis intervention, supportive counseling, psychosocial education, case management, and complete a variety of assessments. I also serve on our leadership team and assist with ensuring best patient practices, as well as coordinate all of our social work internship opportunities. In addition, I also serve as a Board Approved Clinical Supervisor.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommended and the sections covered. I would also like to highlight two important points.

1. BHEC Discretion re: Emergency License – COVID 19 has shown that social work licensure across states can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing rates – it is incredibly disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. For instance, I have one supervisee who is still waiting to hear back from the board on acknowledgement of their completion of LCSW supervision and approval to sit for their exam; it has been nearly four months. The students I work with often report it taking between two to six months, four months appearing to be average, to receive approval to sit for their LMSW examinations. We continue to see licensing rates grow without any changes to show for it. If I am to read the proposed rules correctly, I can assume that my renewal rates as an LCSW-Supervisor will increase by \$113 per renewal period, that is over \$55 increase per year. We ask that the BHEC rules to keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Anastasia

Anastasia Deeter, LCSW-S

Clinical Specialist- Student Programming
Instructor- Baylor College of Medicine

1102 Bates Ave, Ste 1930
Houston, TX 77030

Direct	Pager	Fax
832-824-0729	832-824-2099	832-825-6366



Applications & Licensure

SUBCHAPTER A- License Applications

882.9. *Established Application Processing Time*

A. The Council shall publish the minimum, maximum and median times for processing applications by by each license type during the preceding 12-month period on its website, together with a justification for each of the periods. These figures will be updated on an annual basis.

- a. **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G- Emergency Temporary License

882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(e-b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

- (1) The Governor declares a disaster under Government Code 418.014; and
- (2) The person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) the Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

- (1) The Governor declares a disaster under Government Code 418.014;
- (2) The person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under 418.014 and issues a proclamation in accordance with the Government Code 418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster
- (3) The Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
- (4) The applicant meets the requirements set forth herein below.

~~(b d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work with in the disaster designated by the governor.

~~(d f)~~ to be eligible for an emergency temporary license, an applicant must:

- (1) Submit an application in the form prescribed by the Council; and
- ~~(2)~~ Submit written verification that the applicant is actively licensed, certified, or registered to practice marriage and family therapy, professional counseling, psychology, or social work in another jurisdiction and the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f h)~~ An individual practicing under an emergency temporary license must:

- (1) Display a copy of the emergency temporary license in a conspicuous location when delivering services or provide written notification of the license number and instructions on how to verify the status of a license when initiation services with a patient or client;
- (2) Provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) Comply with all other applicable Council rules.

~~(g i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

Rationale: The unprecedented severity and magnitude of the current outbreak has shown some light on appropriate disaster response provisions for health care providers. The proposed language referring to practical agency discretion is far more restrictive than current practice, and arguably conflicting with Government Code 418.117. The suggested language addresses these concerns by codifying the license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has

a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, the BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B- Investigation and disposition of complaints

884.12 Complaint Disposition

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering contested enforcement matter if there are concerns about the standard of care of ethical practice showed by the licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in 507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practices required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standard therefore must be required to consult with member boards when these issues arise in context of enforcement matters. The benefits of engaging each board outweighs any potential processing delays. _

-

GENERAL PROVISIONS

-

SUBCHAPTER B- Rulemaking

881.20- Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each separate member board for anti-competitive impacts, administrative consistency, and good governance concerns

Rationale: 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Health Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed 881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as the legislative intent.

CONFIDENTIALITY NOTICE:

The information in this e-mail may be confidential and/or privileged. If you are not the intended recipient or an

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881

authorized representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this e-mail and its attachments, if any, or the information contained herein is prohibited. If you have received this e-mail in error, please immediately notify the sender by return e-mail and delete this e-mail from your computer system. Thank you.

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:33 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

roniprieto@elp.rr.com <roniprieto@elp.rr.com>

Thu, May 7, 2020 at 4:08 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Ronald W. Prieto and I am a Licensed Clinical Social Worker. I have just retired my position as Director of Case Management from an acute inpatient physical rehabilitation hospital, which I held for the past 20 years. Prior to that, I had ten years experience working in both inpatient and outpatient psychiatric settings. I began my work experiences before there was any licensure by the state of Texas. Thus, I am keenly aware of the need of having an efficient licensing board who is aware of the functions and scope of services for social workers.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ronald W. Prieto, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(e)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection ~~(d)~~ of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Subject line: Comments on Proposed Rules 22TAC Chapter 881.

statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:33 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Carol Ann Ross <carolann@daringventures.com>
To: open.records@tsbep.texas.gov

Thu, May 7, 2020 at 3:49 PM

Dear Texas State Board representative,

My name is Carol Ann Ross and I am a **licensed social worker**. I work for a small group practice that serves individuals, couples and families impacted by addiction.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. **BHEC Discretion re: Emergency License** – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates:** It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Carol Ann Ross, LMSW, CSAT, CMAT

Therapist | Addiction Specialist

Daring Ventures, Counseling, Coaching and Consulting, LLC

Certified Sex Addiction Therapist

Certified Multiple Addiction Therapist

DaringVentures.com

1.855,602.2554



APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(gi)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or

ethical practice shown by a licensee. The Council ~~shall~~may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Rachel Slaymaker <rxw99a@acu.edu>
To: open.records@tsbep.texas.gov

Thu, May 7, 2020 at 9:20 PM

My name is Rachel Slaymaker, and I am a **licensed social worker. I am also a social work educator who helps prepare students for licensure in the State of Texas.** I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e)(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(d)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g)(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

--

Rachel Slaymaker, LMSW, EdD Candidate

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881

Associate Professor
Director of Field Education
Associate Director of the School of Social Work
Abilene Christian University
ACU Box 27866
Abilene, Texas 79699
325.674.2072 (main office)
325.674.2142 (direct ext)
www.acu.edu/socialwork

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Edits to HB 1501

2 messages

Claire Woll <clairemwoll@gmail.com>

Fri, May 8, 2020 at 10:58 AM

To: open.records@tsbep.texas.gov

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

My name is Claire Woll and I am a **licensed social worker providing counseling and mental health services to children, adolescents and young adults in Texas.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Claire Woll

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed

§881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 11:18 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Tara Ayala LCSW <taraayalalcs@gmail.com>
To: open.records@tsbep.texas.gov

Fri, May 8, 2020 at 2:32 PM

My name is Tara Ayala_and I am a **licensed social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Tara Ayala

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)d An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e)e An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(d)f To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)h An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~ current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ ~~may only~~ ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881.

Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Sent from my iPhone

Brenda Skiff <brenda@tsbep.state.tx.us>

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 2:30 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Virginia Manuel <v.manuel.msw@gmail.com>

Fri, May 8, 2020 at 7:24 PM

To: open.records@tsbep.texas.gov

My name is Virginia D. Manuel, LMSW-AP and I am a **licensed social worker**. *In my 43 years of practice, I have always worked in public or non-profit organizations which serve the lowest income individuals in Texas.*

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Virginia D. Manuel, LMSW-AP

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical

delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection ~~(d)~~ of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

- (c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

- (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

National Association of Social Workers, Texas Chapter (NASW/Texas)

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Anita Franz <anitafranzlcsww@gmail.com>

Fri, May 8, 2020 at 8:44 PM

To: open.records@tsbep.texas.gov

My name is Anita Louise Franz, and I am a **licensed clinical social worker** providing play therapy to children ages 3 - 11.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Anita Louise Franz, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Anita Louise Franz, LCSW
13706 Research Blvd Ste. 205
Austin, TX 78750

anitafranzlcsw@gmail.com
512-765-5705

****Please be aware that e-mail--and any form of electronic communication--is Social not a secure or confidential means of sending information. Be cautious when disclosing sensitive or private materials, as your message becomes the property of third parties (your server and your recipient's server). If you receive this or any e-mail communication in error, please contact the sender immediately and delete the message and any attachments/files. Copying, disclosing, or distributing the content of such electronic messages is prohibited.****

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Improving the Texas Behavioral Health Executive Council (BHEC)

1 message

Monica McCarthy <mrmccarthy4@gmail.com>
To: open.records@tsbep.texas.gov

Sat, May 9, 2020 at 1:54 PM

To Whom it May Concern,

My name is Monica McCarthy I am a **Licensed Master Social Worker**. I currently work as a Program Specialist to the Texas Section 811 Project-Based Rental Assistance Program, which provides rental assistance to over 400 adults with disabilities and their households, allowing them to live in the community instead of an institution.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Monica McCarthy

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

--

Monica McCarthy, LMSW
Pronouns: she/her/hers
Email: mrmccarthy4@gmail.com
Phone: 847-477-6986



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Lynn Panepinto <lpnepinto@utexas.edu>

Mon, May 11, 2020 at 2:29 PM

To: open.records@tsbep.texas.gov

Hello,

My name is Lynn Panepinto and I am a **licensed master social worker (LMSW)** in Austin. I work as a bilingual counselor with survivors of violence and abuse at a nonprofit organization.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. **BHEC Discretion re: Emergency License** – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates:** It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Lynn Panepinto, LMSW

Pronouns: she/her/hers

MSSW, School of Social Work

MA, Lozano Long Institute of Latin American Studies

lpnepinto@utexas.edu

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~else~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed

§881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881

2 messages

Pat Gleason-Wynn <drpgw@yahoo.com>

Mon, May 11, 2020 at 7:24 PM

Reply-To: Pat Gleason-Wynn <drpgw@yahoo.com>

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Pat Gleason-Wynn, PhD, LCSW. I am a Licensed Clinical Social Worker who works with older adults and their caregivers both in the community and in healthcare. I have been a social worker for 40 years.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need **an efficient and skilled board** to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.**

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

Pat Gleason-Wynn, PhD, LCSW, CSW-G
5009 Sheridan Court, Arlington, TX 76017

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(e)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Pat Gleason-Wynn, PhD, LCSW, CSW-G

Happiness does not depend on accumulating more things, but on the mindset we have concerning the things we already do possess. Fulton Sheen, Finding True Happiness

Brenda Skiff <brenda@tsbep.state.tx.us>

Tue, May 12, 2020 at 9:06 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881

1 message

Arthur Rolland Fellows <arfellows@gmail.com>

Mon, May 18, 2020 at 7:26 AM

To: open.records@tsbep.texas.gov

I am submitting comments on the Subject line: Comments on Proposed Rules 22TAC Chapter 881.

Below are comments to the rules for the The Texas Behavioral Health Executive Council. I am suggesting that changes be made to the rules that establish the TBHEC that reflect the proposed changes in the rules below.

Attached is a PDF document with my suggestions.

Thank you for considering my suggestions.

Rolland Fellows, PhD
4131 Spicewood Springs
Suite G-6
Austin, TX 78759
Work/Cell : 512-346-1796

Full Name: Arthur Rolland Fellows

Proposed changes:

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (b)d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:

 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Rebecca Lincoln <rebecca@lincolnipc.com>

Tue, May 19, 2020 at 10:39 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

For your consideration regarding the Texas Behavioral Health Executive Council (BHEC), I recommend the following changes:

Regarding 881.20, change "must also" to "may only"; This will better align with 507.153 of the Occupational Code

§881.20 Rulemaking by Executive Council (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Regarding 884.12, Change "may" to "shall"; The member boards are the best source of ethical complaints and have the knowledge of the specific profession. Member boards shall be consulted. I realize this may delay processing, however, it is important to consult the member boards.

§884.12 Complaint Disposition. (c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Regarding 882.70, Please make the changes as recommended by The Texas Counseling Association, National Association of Social Workers - Texas (NASW-TX), Texas Society for Clinical Social Work (TSCSW), the Texas Association of Marriage and Family Therapists (TAMFT) and the Texas Psychological Association (TPA),

These are all outstanding organizations that support the professions of mental health counseling. Heed their recommendations.

Thank you for your consideration.

Warmly,
Rebecca Lincoln, LPC-S #17816

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 20, 2020 at 10:03 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 8812 messages

Joe K. Hartsoe <joehartsoe@gmail.com>

Thu, May 21, 2020 at 10:16 AM

To: open.records@tsbep.texas.gov

To Whom It May Concern:

My name is Joseph Hartsoe and I am a social work student who has graduated and waiting for my license to be issued any day. My previous experience and future area of practice is working with youth in the school setting to provide social and emotional support with education to enhance their functioning, increase matriculation, and entrance into the Texas society as contributing members to our communities.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. Our profession continue to see licensing rates grow without any change to show for it. I ask that BHEC rules keep our rates unchanged.
 1. The renewal fee on LMSW/LCSW licenses is of particular concern when compared to the renewal fee of LPC's. LMSW practitioners do not have the same independent practice authority as LPC holders but yet, your proposed plan outlines that the two be charged the same rate for their license renewal each cycle.
 2. Further, it is unfortunate to see that LCSW practitioners are required to pay more than LPCs for their license renewal. LCSW's traditionally offer comparable services in psychotherapy and independent practice authority, yet, the board's current proposal state that LCSW's be charged more for their license renewal compared to their LPC colleagues.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Joseph Hartsoe

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another

jurisdiction and that the licensure, certification, or registration is in good standing.

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out of state license, certification, or registration.~~

(g)_____An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying_would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes_would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary_flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS**SUBCHAPTER B – RULEMAKING****§881.20 Rulemaking by Executive Council**

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:56 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment on Proposed BHEC Rules

2 messages

Jan Friese <Jan@txca.org>

Thu, May 21, 2020 at 8:59 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

Cc: "Will Francis - National Association of Social Workers/Texas Chapter (WFrancis@naswtx.org)" <WFrancis@naswtx.org>,

Tris Castaneda <tcastaneda@longbow-partners.com>, "Mark Hanna (mhanna@markjhanna.com)"

<mhanna@markjhanna.com>, TPA Executive Director <jessica@texaspsyc.org>

Thank you for the opportunity to comment on the Texas Behavioral Health Executive Council proposed rules. I am submitting the attached letter on behalf of the National Association of Social Workers, Texas Chapter; the Texas Association for Marriage and Family Therapy; the Texas Counseling Association; the Texas Psychological Association; and the Texas Society for Clinical Social Work. It reflects our collective comments on the rules published in the April 24th issue of the *Texas Register*.

We appreciate the opportunity to work with you on the successful launch of BHEC and appreciate your consideration of these suggested modifications to the published rules.

Jan Friese

Executive Director

Texas Counseling Association

www.txca.org

512-472-3403, ext 11

TCA: Professional Counselors committed to advocacy, leadership and the promotion of professional excellence.

Renew or Join Today!

TCA leads, educates and advocates to advance the counseling profession, to increase access to professional counselors, and to promote wellness.

TexasBehavioralHealthExecutiveCouncil_ProposedRules_PublicComment_Behavioral Health Coalition_05.21.20.pdf
271K



Texas Society for Clinical Social Work



May 15, 2020

**Coalition Comments on Texas Behavioral Health Executive Council
DRAFT RULES**

The mental health professional associations listed above represent Licensed Marriage and Family Therapists, Licensed Professional Counselors, Psychologists and Social Workers. The comments herein reflect our collective efforts to ensure the successful launch and functioning of the newly created Texas Behavioral Health Executive Council (BHEC).

We appreciate the legislative leadership and thoughtful emphasis on strengthening the mental health infrastructure in Texas and applaud the many hours of implementation work in connection with establishing a well-functioning and responsive BHEC. BHEC is an innovative strategy to create operational efficiencies while maintaining the integrity of the respective member boards' appropriate regulatory authority over what makes each mental health professional licenses unique. The regulatory authority delegated to BHEC is explicitly limited to establishing operational efficiencies and ensuring that any rule promulgated by a member board does not violate federal antitrust laws by limiting competition or impacting prices charged by persons engaged in a profession or business the executive council regulates. This ensures active state supervision while protecting the state's sovereign immunity.

Our associations appreciate the opportunity to participate both informally and formally in the process to adopt the rules that will govern BHEC's operating procedures and relationship with our respective licensing boards. Many of the proposed rules reflect the comments and recommendations delivered by us at your last meeting, but there are additional rules we would respectfully submit for your consideration, such as those allowing for emergency licenses, that reflect the current health crisis and should provide for a much swifter state response in the future.

We welcome your favorable consideration and encourage the agency to adopt the language recommendations listed below to ensure the rules as finally adopted are consistent with Chapter 507 of the Texas Occupations Code, as well as current and best practices.

Applications and Licensure

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

- (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: One of the key features contemplated by the Legislature in creating BHEC is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report

will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- ~~(a)~~(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- ~~(b)~~d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- ~~(e)~~e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- ~~(e)~~f) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and

- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~
- (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- (fh) An individual practicing under an emergency temporary license must:
 - (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. The published language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested new language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12

Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. BHEC does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

General Provisions

SUBCHAPTER A – GENERAL PROVISIONS: Add a new §881.14 as follows:

§881.14 Impartiality and Non-discrimination

- (a) The BHEC board members will make decisions in the discharge of its statutory authority without regard to a person's age, race, religion, ethnicity, sex, gender, affectional orientation, disability, national origin, or genetic information.
- (b) Any BHEC board member who is unable to be impartial in the determination of disciplinary action against a licensee or who is determined to have a conflict of interest as set forth in §881.5 will declare this to the board and will not participate in any board proceedings involving that licensee.
- (c) A person needing accommodations under the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) in order to access BHEC board services must request reasonable accommodations in writing and may be required to provide verification of the person's disability and recommendations for appropriate accommodations from a medical, mental health, rehabilitation, or educational professional or specialist qualified to make such recommendations.

Rationale: Each of the member boards housed at BHEC have similar language currently in their rules. It appears that due to the role BHEC has in issuing licenses and administering the complaint process, those specific rules are being removed as the individual member boards propose rules changes to align with HB 1501 and the creation of BHEC. These protections, however, should be maintained by BHEC. We anticipate that the omission of this important language is an oversight since these rules were developed prior to the rule reviews undertaken by the individual member boards.

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

- (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the

Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) Member boards must submit a new draft rule or rule change to the Council for consideration by submitting a draft of the rule with any deletions crossed through and additions underlined. The draft must also contain each of the notice components required in a preamble (e.g. §2001.024 of the Government Code) when proposing a new rule or rule change to the Council, member boards must also submit any information or comments received from the public in connection with the proposed rule. The Council shall limit its review of proposed rules to questions regarding anticompetitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by BHEC only for anti-competitive impacts, administrative consistency and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. The words “must also” implies that the authority of BHEC to review member board rules is broader than statutorily allowed. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

CONTACTS

Will Francis, Executive Director

National Association of Social Workers – Texas Chapter

(512) 474-1454

wfrancis.naswtx@socialworkers.org

Tris Castaneda

Texas Association for Marriage and Family Therapy

(512) 320-9933

tcastaneda@longbow-partners.com

Jan Friese, Executive Director

Texas Counseling Association

(512) 472-3403

Jan@txca.org

Jessica Magee, Executive Director

Texas Psychological Association

(512) 528-8400

jessica@texaspsyc.org

Mark Hanna

Texas Society for Clinical Social Work

(512) 477-6200

mhanna@markjhanna.com



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments re: Texas Behavioral Health Executive Council Proposed Rules

2 messages

Keiko Davenport <kdavenport@aamft.org>

Fri, May 22, 2020 at 1:31 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

Cc: Roger Smith <rsmith@aamft.org>

Dear Ms. Brenda Skiff,

I hope you are well. My name is Keiko Davenport, and I am the State Government Affairs Manager for the American Association for Marriage and Family Therapy. Please accept the attached PDF as AAMFT's comments regarding the Texas Behavioral Health Executive Council's proposed rules for the implementation of House Bill 1501.

Please feel free to reach out to me if there should be any follow-up questions or discussion regarding our comments and recommendations.

Best,

Keiko Davenport | State Government Affairs Manager

American Association for Marriage and Family Therapy

112 South Alfred Street

Alexandria, VA 22314

Tel. 703-822-7237

KDavenport@aamft.org

www.aamft.org

**AAMFT Comments re Proposed BHEC Rules.pdf**

812K

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:57 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701



May 21, 2020

Brenda Skiff
Public Information Officer
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste. 2-450
Austin, Texas 78701

RE: Proposed Rules for the Texas Behavioral Health Executive Council

Dear Ms. Skiff,

The American Association for Marriage and Family Therapy (AAMFT) thanks you for the opportunity to provide input on the above referenced proposed regulations. AAMFT represents the professional interests of over 62,000 Marriage and Family Therapists (MFTs) in the United States, including Texas.

AAMFT applauds the effort and innovation that has gone into the creation of the Texas Behavioral Health Executive Council (BHEC). We believe that this new structure will create more administrative efficiency, while preserving the authority of member boards to provide their individual expertise in regulating their respective professions. AAMFT largely supports the rules as written by BHEC, though we respectfully request the consideration of small language changes that will preserve the legislative intent behind HB 1501. Please see our suggested changes listed on the second page.

The incorporation of our suggested changes into the proposed rules will simply ensure that member boards retain their authority over their license types using their unique knowledge of their respective professions, while allowing the BHEC to review and monitor for anti-competitive impact and good governance. AAMFT firmly believes that our recommended changes honor the legislative intent behind HB 1501.

We thank you for your commitment to the mental health professions in Texas. If you, members of BHEC, or other staff members would like to request further information from AAMFT or continue this discussion, please contact me at kdavenport@aamft.org or (703) 822-7237. Thank you again for this opportunity to provide comments on the proposed rules for BHEC.

Sincerely,

A handwritten signature in black ink, appearing to read "Keiko Davenport", is written over a light blue circular stamp.

Keiko Davenport
State Government Affairs Manager
American Association for Marriage and Family Therapy

AAMFT Recommended Changes to the Proposed Rules for the Texas Behavioral Health
Executive Council

§881.20. Rulemaking by the Executive Council.

(a) The Council shall adopt rules necessary to perform its duties and implement Title 3, Subtitle I, Chapter 507 of the Occupations Code. When carrying out its rulemaking functions, the Council shall abide by the requirements of the Administrative Procedure Act found in Chapter 2001 of the Government Code.

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must also~~ may only review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

...

(i) The Council shall only consider each of the following factors when reviewing a draft rule submitted by a member board:



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jodie Elder <jodie_elder@hotmail.com>
To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Fri, May 22, 2020 at 11:59 PM

To the Behavioral Health Executive Council:

I respectfully submit the attached public comment on the proposed rules published in the April 24, 2020 issue of the Texas Register.

Sincerely,

Jodie Elder

Jodie Elder, PhD, LPC-S, LMFT
Public Policy Committee Co-Chair, Texas Counseling Association
TCA Liaison to the Texas State Board of Examiners of Marriage and Family Therapists

 **Comments on BHEC Proposed Rules_04.24.20.docx**
18K

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:58 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

 **Comments on BHEC Proposed Rules_04.24.20.docx**
18K

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.6 Limitations on Number of Examination Attempts

~~(a) An applicant may take an examination administered or required by the Council no more than three times. Failure to pass an examination subject to this rule within three attempts, will result in an automatic denial of an application. The number of examination attempts allowed for applicants will be determined by the member board authorized to set those requirements.~~

Rationale: The examination required for each specific licensure are created using independent norming groups and have varied difficulty levels and expected pass rates. Consequently, each independent licensing board should retain the right to set rules regarding the number of times

licensees are allowed to sit for the exams before they are denied application and therefore entrance into the field.

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)~~(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(f)~~(f) To be eligible for an emergency temporary license, an applicant must:

- (1) submit an application in the form prescribed by the Council; and
- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

881.21 Petition for Rulemaking

Jefferson Thomas

Jan Friese, TCA, ED

24



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment - Proposed Rules §881.21 Petition for Rulemaking2 messages

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Mon, May 11, 2020 at 10:19 AM

For clarity or organization, I recommend changes to §881.21 Petition for Rulemaking as indicated below:

§881.21 Petition for Rulemaking

(a) Any interested person may petition for rulemaking in accordance with §2001.021 of the Government Code by submitting to the Council a written request for the adoption of a rule or rule change. The term "interested person" as used in this rule, shall have the same meaning as that assigned by §2001.021(d) of the Government Code. The written request must contain a return mailing address for the agency's response.

(b) The written request must, at a minimum,

(1) affirmatively show that the requestor qualifies as an interested person under this rule;

(2) set forth or identify the rule the petitioner wants the Council to adopt or change, reasons why the petitioner believes the requested rulemaking is necessary, and include a copy of the proposed rule or any proposed changes with deletions crossed through and additions underlined.

(3) ~~Additionally, the written request must affirmatively show that the requestor qualifies as an interested person under this rule. Requests which do not affirmatively show that the requestor qualifies as an interested person under this rule may be denied.~~

~~(e) The written request should also address the economic cost to persons required to comply with the rule, the effects of the rule on small or micro-businesses or rural communities, and the impact the rule would have on local employment or economies, if such information can be derived from available sources without undue cost or burden; and-~~

(4) include a return mailing address for the agency's response.

~~(c)(d)~~ The Council will respond to a written request for adoption of a rule from an interested person in accordance with §2001.021 of the Government Code.

~~(d)(e) The term "interested person" as used in this rule, shall have the same meaning as that assigned by §2001.021(d) of the Government Code. Additionally, a person who submits a petition under this rule must affirm that they qualify as an interested person in the petition. Petitions which do not contain the minimum requirements specified in subsection (b) an affirmation may be denied.~~

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Mon, May 11, 2020 at 10:29 AM

Please also consider the following addition, to curtail redundant submissions:

§881.21 Petition for Rulemaking

(e) The council may refuse to consider a subsequent petition for the adoption of the same or similar rule submitted within six months after the date of an initial petition.

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment 45 TexReg 2640 BHEC Proposed Rules

2 messages

Jan Friese <Jan@txca.org>

Mon, May 25, 2020 at 4:59 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

Cc: Michael Moyer <mmoyer64@yahoo.com>

Thank you for your consideration of the attached comments, submitted in addition to the comments TCA submitted in collaboration with the Behavioral Health Coalition on May 22, 2020.

Please contact me at 512-786-6806 with any questions.

Stay Healthy! Stay Happy! Stay Connected!

Jan Friese

Executive Director

Texas Counseling Association

www.txca.org

512-472-3403, ext 11

TCA: Professional Counselors committed to advocacy, leadership and the promotion of professional excellence.

Renew or Join Today!



TCA leads, educates and advocates to advance the counseling profession, to increase access to professional counselors, and to promote wellness.

BHEC_Comments on Proposed Rules_TexasCounselingAssociation_05.2020.pdf
164K

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:59 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Texas Counseling Association
1210 San Antonio, Suite 200
Austin, TX 78701
www.txca.org

Texas Behavioral Health Executive Council Proposed Rules (45 TexReg 2640)

Comments submitted by Jan Friese, Executive Director, Texas Counseling Association
May 24, 2020

The Texas Counseling Association (TCA) respectfully submits the following comments on the proposed rules for the Texas Behavioral Health Executive Council (BHEC) as published on April 24, 2020 in 45TexReg2640.

Managing the creation of new rules for a new agency while amending the rules of the member boards housed there is a monumental task. TCA thanks the members and staff of BHEC and the individual boards for their hard work and due diligence.

TCA respectfully requests – in addition to the comments submitted through the Behavioral Health Coalition – consideration of the following amendments. These proposals address what we expect is the unintentional omission of rules regarding non-discrimination, as well as the opportunity for engagement by the member boards on petitions for rulemaking related to licensure, scope of practice, standards of care and ethical practice, as well as CE requirements.

Impartiality and Non-discrimination: Add a new Section 881.14

Three of the four member boards' rules (§681.13(a); §781.312(a); §801.15(a)) include specific language that prohibits discrimination by those boards in licensing and disciplinary decisions. Section 881.5 of the proposed BHEC rules addresses the process for impartiality and the disclosure of potential conflicts of interest in matters that come before the Council. The proposed rules do not include language to specifically address non-discrimination. The non-discrimination language is being removed from the member boards' rules making its inclusion here essential.

TCA recommends a new §881.14 be added to Subchapter A – General Provisions as follows:

§881.14. Impartiality and Non-discrimination

(a) The Council will make decisions in the discharge of its statutory authority without regard to person's age, race, religion, ethnicity, sex, gender, affectional orientation, disability, national origin, or genetic information.

(b) A person needing accommodations under the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) in order to access BHEC board services must request reasonable accommodations in writing and may be required to provide verification of the person's disability and recommendations for appropriate accommodations from a medical, mental health, rehabilitation, or educational professional or specialist qualified to make such recommendations.

Petition for Rulemaking – Amend §881.21(c)

Proposed rule changes for each member board removes the opportunity to submit rulemaking petitions directly to them. Petitions for rulemaking will instead be processed through BHEC. Given that only member boards can adopt rules on license qualification, scope of practice, standards of care, ethical practices and CE requirements,

TCA recommends that petitions for rulemaking relating to those specific items be referred to the appropriate member board for review and consideration prior to any final action by the Council.

TCA recommends an amendment to §881.21(c) as follows

§881.21. Petition for Rulemaking.

(a) Any interested person may petition for rulemaking in accordance with §2001.021 of the Government Code by submitting to the Council a written request for the adoption of a rule or rule change. The written request must contain a return mailing address for the agency's response.

(b) The written request must, at a minimum, set forth or identify the rule the petitioner wants the Council to adopt or change, reasons why the petitioner believes the requested rulemaking is necessary, and include a copy of the proposed rule or any proposed changes with deletions crossed through and additions underlined. Additionally, the written request must affirmatively show that the requestor qualifies as an interested person under this rule. Requests which do not affirmatively show that the requestor qualifies as an interested person under this rule may be denied.

(c) The written request should also address the economic cost to persons required to comply with the rule, the effects of the rule on small or micro-businesses or rural communities, and the impact the rule would have on local employment or economies, if such information can be derived from available sources without undue cost or burden.

(d) Petitions for rulemaking that relate to qualifications for licensure, scope of practice, standards of care, ethical practices or CE requirements will be forwarded by the Executive Director to the appropriate member board for review and consideration. The Council will respond to a written request for adoption of a rule from an interested person in accordance with §2001.021 of the Government Code.

(e) The term "interested person" as used in this rule, shall have the same meaning as that assigned by §2001.021(d) of the Government Code. Additionally, a person who submits a petition under this rule must affirm that they qualify as an interested person in the petition. Petitions which do not contain such an affirmation may be denied.

Thank you for your hard work and consideration of these comments. TCA welcomes the opportunity to work with you for a successful launch of this innovative agency.

881.32 Sick Leave Pool

Helen Harris, Ed.D., LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comment on Proposed Rules

2 messages

Harris, Helen <Helen_Harris@baylor.edu>

Sat, May 23, 2020 at 2:22 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Helen Harris and I am a licensed social worker, LCSW-S, #9514. I am a social work educator at the Garland School of Social Work/Baylor University.

Thank you for the opportunity to respond with comments specific to the Behavioral health Executive Council (BHEC) draft rules. This board and these rules are important to the effective and efficient provision of a social work workforce in Texas.

I have reviewed the draft carefully and have several comments/questions and recommendations and appreciate your willingness to consider these.

1. In times of disaster like we currently experience with COVID-19, is important that licensed social workers from other states be able to quickly receive emergency license to practice.
2. Here are my comments on specific parts of the proposed law with page number and section.
 - Does the rotational nature of board member selection mean that there will be years without a social worker on the board?
 - If the council/board decides on the qualifications for the Executive Director, might that impact the discipline(s) that are elevated or ignored for Executive Director qualifications?
 - 881 Sick leave pool....why are more procedures needed than in the Government Code and Employees Retirement System of Texas etc. p. 15
 - 882.2. Requires a transcript from the accredited institution....directly from the institution.
Current students can take the exam in their last semester of work. Does this eliminate that? P. 21
 - p. 21 #5...SAVE...is this about making sure immigrants aren't getting any entitlements? Why would this be important if they have been students and may have needed help?
 - Currently application for licensure is the ticket to taking the exam. This says you need exam results prior to applying for licensure. How does that work with ASWB? P. 21
 - p. 23. 882.6. Previous licensure rules included provision for the rare student who is unable to pass the exam after three tries because of disabilities related to testing but who meets all other requirements and demonstrates promise as a practitioner. The provision was application to practice for several years under the close supervision of

a licensed practitioner who oversees the practice and at the end of the provisional time makes a recommendation regarding the candidate's licensure. In my 40 years of practice I have only worked with one graduate/practitioner who needed this provision but was able to practice successfully under supervision and then with her own license having successfully met the supervised practice requirement. I recommend the council consider this option for the new law.

- p. 43. 882.50-1. Random audits. Each month 10% of the licensees will be selected by an automated process....I assume this means 10% of those due for renewal for that month but this is not clear and suggests that 10% of all licensees would be selected each month indicating that 120% would be audited each year....a burdensome and expensive process.

- p. 46: 882.61 Special Licensing Provisions for Military Spouses. Thank you. Excellent change.

- p. 49. 882.70. Emergency Temporary License

The delay in licensing has been substantial in past years and an emergency temporary license has been available to those waiting for the state to process applications...particularly for those who need a license to secure or retain a job and whose licenses are held up through no fault of their own. I recommend that option for six month emergency temporary license be included.

Thank you again for the opportunity to respond.

Helen Harris

Helen Harris, Ed.D., LCSW

Associate Professor

Diana R. Garland School of Social Work

Baylor University

One Bear Place #97320

Waco, Texas 76798

(254) 710-4431

Helen_Harris@baylor.edu

She/her/hers

"Education is not the filling of a pail, but the lighting of a fire." – WB Yeats

"Our ability to reach unity in diversity will be the beauty and the test of our civilization" Ghandi

882.1 Application Process

Jefferson Thomas

Aaron Robb, Ph.D., LPC-S



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §882.1 Application Process

1 message

Jefferson Thomas <jeffthom1776@gmail.com>

Mon, May 11, 2020 at 2:13 PM

To: Open.Records@tsbep.texas.gov

To allow written notice other than post ("send out a letter") such as email notice, please consider change to §882.1 Application Process as indicated below:

§882.1 Application Process

(5) Once an application is complete, the applicant is either approved or denied to sit for any required examinations, or approved or denied licensure. Agency staff will notify the applicant of ~~send out a letter reflecting~~ the agency's determination and instructions for the next steps needed, if any.



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §882.1 Application Process and §885.1 Executive Council Fees

1 message

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Mon, May 11, 2020 at 2:08 PM

Subsection 882.1(1) appears to conflict with subparagraph 885.1(a)(1), presuming the "incorrect fee" in 882.1(1) is "returned to the applicant" along with the application.

§882.1 Application Process

Applications for licensure are processed in the following manner:

(1) Applicants must submit for review an official application form, the corresponding application fee, and all information required by law to the Council. The responsibility for submitting a complete application resides solely with the applicant. An application submitted with the incorrect fee amount will be returned to the applicant.

§885.1 Executive Council Fees

(a) General provisions.

(1) All fees are nonrefundable and cannot be waived except as otherwise permitted by law.



Brenda Skiff <brenda@tsbep.state.tx.us>

Rules comments

2 messages

Aaron Robb <aaron@texascounseling.org>

Fri, May 22, 2020 at 8:54 PM

To: open.records@tsbep.texas.gov

Please see attached

--

Aaron Robb, Ph.D., LPC-S

Forensic Counseling Services

<http://www.texascounseling.org>

Mailing Address: 2831 Eldorado Pkwy., Ste. 103-377, Frisco, TX 75033

Phone: 972-360-7437; Fax: 940-343-2601

"You can't go back and make a new start, but you can start right now and make a brand new ending." James Sherman
(commonly mis-attributed to C. S. Lewis)

This e-mail and any attachments contain information from the office of Aaron Robb, Ph.D., LPC-S, and are intended solely for the use of the named recipients. Any dissemination of this e-mail is strictly prohibited. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mails or attachments.

**BHEC rules comments 2020-05-22.pdf**

96K

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:57 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]

**BHEC rules comments 2020-05-22.pdf**

96K

Aaron Robb, Ph.D., LPC-S
2831 Eldorado Parkway, Suite 103-377
Frisco, TX 75033

5/22/2020

open.records@tsbep.texas.gov

Dear Texas Behavioral Health Executive Council staff,

I am writing to provide feedback on the recently proposed rule. By way of background, I am a Licensed as a Professional Counselor, although in addition to my Master's in Counseling I also hold a Doctorate in Social Work. Having studied in multiple professional disciplines I appreciate the challenge that BHEC has in working with member boards of different backgrounds. After beginning my career with Child Protective Services I transitioned to working for Dallas County Family Court Services providing child custody evaluations and other services. Although I have transitioned from public service to private practice, over the last two decades I have focused on forensic mental health services. In that time I have published articles in academic and professional journals and amongst my academic work I serve on the Editorial Boards of the journal *Family Court Review* and the *Journal of Family Trauma, Child Custody & Child Development*. Locally, I have worked with the Family Law Foundation to help draft and pass various pieces of legislation that impact Texas families, including various revisions of Section 107, Subchapter D of the Texas Family Code regarding child custody and adoption evaluations. Thanks to more than a decade of work by the family law and mental health communities, Texas has some of the most rigorous laws in the nation regarding to professional practices and requirements for evaluations.

I appreciate this opportunity to share my thoughts and feedback on the recommended changes. I have outlined specific rules below for ease of review. I want to lead off by clearly noting that I support the passage of these rules, and my feedback is intended to build constructively from what has been proposed. It is critical to both licensees and the public that these initial rules be passed in a timely manner; hopefully my feedback is helpful as future iterations develop, refine, and improve regulations for behavioral health professionals in Texas.

From the Texas Register, April 24,2020 issue:

§882.1 "Application process" subsection (3) proposes standards regarding application timeframes that give concern for arbitrary differences drawn between member board types. There appears to be no explanation in the proposed rules as to why one of the licensee types is given only 90 days to complete applications, where the other licensee types have one year. It appears best that there be a single administrative standard regarding application timeframes provides equitable treatment of licensees from all member boards.

§882.30 “Display of License” subsection (b) proposes different standards regarding licensees of different member boards. This again causes concern regarding disparate treatment without any apparent explanation in the proposed rules as to why two of the licensee types may meet this requirement through an alternative method, but the licensees of the other two member boards cannot. As with the issue noted above, it again appears best if there was a single administrative standard applicable toward all licensees.

§882.32. “Duty to Update Name and Address” subsection (a) appears to require a licensee to be responsible for ensuring adequate record keeping for the licensing boards and Executive Council. It has been my experience that member boards seem to struggle to track submissions and process administrative paperwork in a timely fashion. To more clearly reflect the apparent intent of this rule it should be modified for the last sentence to read “It is the responsibility of the individual to provide agency the correct contact information for that individual.” A licensee can demonstrate they have provided information, they cannot make sure the agency does the right thing with it.

§882.36. “Compliance with State and Federal Law” seems to omit Family Code Chapters 104 and 107, both of which have provisions applicable to licensees of all member boards. While such forensic services are rarer, all licensees should be required to comply with all laws of the State of Texas. I fear without specifically naming these Family Code sections BHEC may run the risk that this goal will not be enforceable.

§882.50. “Continuing Education and Audits” subsection (b)(1) causes some significant concerns. An audit each month of 10% of all licensees will mean that, across the course of a year, essentially every licensee will be sampled (statistically many will be sampled more than once, with an outside chance some will not be sampled at all). This seems likely to create an unnecessary burden. It appears one option would be for BHEC to instead require annual submission of continuing education information if the goal is truly to audit at such a level. It may be this section was intended to establish a random audit, in any given year, of 10% of all licensees which seems like a far more reasonable process, and a simple edit is required.

§884.3. “Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations” is a section that has been needed for some time and I am pleased to see this included. The proposed changes should be adopted, and I am hopeful that future updates to rules can go further in addressing the complex adversarial nature of working with court-involved clients in areas other than evaluative work.. That said, it also appears some of these rules set an overly-high bar in some circumstances for clients who have been harmed by licensees.

In this difficult task BHEC should be commended for taking this first step to protect the public by insuring that competent forensic mental health professionals will be available when needed by court-involved clients. Too often complaints are used as “preemptive attacks” against professionals not because they have committed a licensing violation but because the litigating client is attempting to gain some sort of strategic advantage in court. The cost of such a scorched

earth approach to litigation (in time, effort, and expense) drives many competent professionals to avoid any type of interaction with court-connected clients. This has the knock-on result of creating a shortage of well-trained professionals willing to take on forensic work, forcing some clients to seek out subpar providers and the subpar work they perform. In order to ensure the public has access to quality providers willing to work with court-connected clients I am hopeful in the future BHEC will expand these rules to apply to all licensees working under court appointment.

That said, I am also hopeful in the future BHEC will look at expanding the options, particularly under Subsection (f), for client complaints to be heard as I fear what has been proposed currently may be overly restrictive. As someone who has served as an expert witness in scores of hearings, including many cases reviewing the work of court-appointed evaluators, in my experience it is very rare to see a court disqualify or strike an expert after having appointed them. Even when the expert has blatantly failed to meet not just the standard of care, but basic requirements set out in the Family Code and court appointment order, this impacts the weight the court gives to the expert rather than resulting in disqualification. When courts permit an expert to correct a defect by supplementing a report (a common cure when there is a deficiency found) or otherwise mitigating their errors, this does not remove the expert's failure to meet their ethical duty to have performed a competent job the first time around.

At a minimum I believe the language found in proposed 884.5(a) regarding a court finding of violation or other deficiency by the licensee should be incorporated as one of the possible criteria under Subsection (f). This, and other future additions, should maintain a focus on the appropriate primary location for litigants to address issues with experts – the court where their case is being heard – while providing better options to protect the public when there is a true error worthy of a licensing complaint.

✓ §884.12 “Complaint Disposition” is section I believe should be modified to require that BHEC shall solicit input from its member boards, rather than “may” do so. §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. From my understanding, BHEC was not developed to have any authority related to standard of care or ethical standards, and I believe therefore must be required to consult with the member boards regarding such issues.

I again appreciate all your hard work and effort on behalf of the citizens of Texas and those of us licensed to serve them. Even if my suggested revisions are not immediately possible, I encourage BHEC to pass the rules as drafted and implement updates in a subsequent iterations.

Sincerely,

A handwritten signature in black ink that reads "Aaron Robb". The signature is fluid and cursive, with the first name "Aaron" and last name "Robb" clearly distinguishable.

Aaron Robb, Ph.D., LPC-S

882.2 General Application File Requirements

Jefferson Thomas

Helen Harris, Ed.D., LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §882.2 General Application File Requirements1 message

Jefferson Thomas <jeffthom1776@gmail.com>

Mon, May 11, 2020 at 2:22 PM

To: Open.Records@tsbep.texas.gov

The requirement in 882.2(a)(5) appears to unnecessarily add to an applicant's burden of documenting qualifications, arbitrarily increase staff's application review workload, and may inadvertently hinder application by military service member, military veteran, or military spouse. Please consider the following deletion of 882.2(a)(5).

§882.2 General Application File Requirements

(a) To be complete, an application file must contain all information needed to determine an applicant's eligibility to sit for the required examinations, or the information and examination results needed to determine an applicant's eligibility for licensure. At a minimum, all applications for licensure must contain:

~~-(5) Verification of the citizenship and immigration status information of non-citizen, naturalized, or derived U.S. citizen applicants through the DHS-USCIS Systematic Alien Verification for Entitlements Program (SAVE). Applicants must submit the documentation and information required by the SAVE program to the Council;~~



Brenda Skiff <brenda@tsbep.state.tx.us>

Comment on Proposed Rules

2 messages

Harris, Helen <Helen_Harris@baylor.edu>

Sat, May 23, 2020 at 2:22 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Helen Harris and I am a licensed social worker, LCSW-S, #9514. I am a social work educator at the Garland School of Social Work/Baylor University.

Thank you for the opportunity to respond with comments specific to the Behavioral health Executive Council (BHEC) draft rules. This board and these rules are important to the effective and efficient provision of a social work workforce in Texas.

I have reviewed the draft carefully and have several comments/questions and recommendations and appreciate your willingness to consider these.

1. In times of disaster like we currently experience with COVID-19, is important that licensed social workers from other states be able to quickly receive emergency license to practice.
2. Here are my comments on specific parts of the proposed law with page number and section.

- Does the rotational nature of board member selection mean that there will be years without a social worker on the board?
- If the council/board decides on the qualifications for the Executive Director, might that impact the discipline(s) that are elevated or ignored for Executive Director qualifications?
- 881 Sick leave pool....why are more procedures needed than in the Government Code and Employees Retirement System of Texas etc. p. 15
- 882.2. Requires a transcript from the accredited institution....directly from the institution.

Current students can take the exam in their last semester of work. Does this eliminate that? P. 21

- p. 21 #5...SAVE...is this about making sure immigrants aren't getting any entitlements? Why would this be important if they have been students and may have needed help?
- Currently application for licensure is the ticket to taking the exam. This says you need exam results prior to applying for licensure. How does that work with ASWB? P. 21
- p. 23. 882.6. Previous licensure rules included provision for the rare student who is unable to pass the exam after three tries because of disabilities related to testing but who meets all other requirements and demonstrates promise as a practitioner. The provision was application to practice for several years under the close supervision of

a licensed practitioner who oversees the practice and at the end of the provisional time makes a recommendation regarding the candidate's licensure. In my 40 years of practice I have only worked with one graduate/practitioner who needed this provision but was able to practice successfully under supervision and then with her own license having successfully met the supervised practice requirement. I recommend the council consider this option for the new law.

- p. 43. 882.50-1. Random audits. Each month 10% of the licensees will be selected by an automated process....I assume this means 10% of those due for renewal for that month but this is not clear and suggests that 10% of all licensees would be selected each month indicating that 120% would be audited each year....a burdensome and expensive process.

- p. 46: 882.61 Special Licensing Provisions for Military Spouses. Thank you. Excellent change.

- p. 49. 882.70. Emergency Temporary License

The delay in licensing has been substantial in past years and an emergency temporary license has been available to those waiting for the state to process applications...particularly for those who need a license to secure or retain a job and whose licenses are held up through no fault of their own. I recommend that option for six month emergency temporary license be included.

Thank you again for the opportunity to respond.

Helen Harris

Helen Harris, Ed.D., LCSW

Associate Professor

Diana R. Garland School of Social Work

Baylor University

One Bear Place #97320

Waco, Texas 76798

(254) 710-4431

Helen_Harris@baylor.edu

She/her/hers

"Education is not the filling of a pail, but the lighting of a fire." – WB Yeats

"Our ability to reach unity in diversity will be the beauty and the test of our civilization" Ghandi

882.3 Renew and Appeal of License Denials

Jefferson Thomas



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment to Proposed Rules §882.3 Review and Appeal of License Denials

1 message

Jefferson Thomas <jeffthom1776@gmail.com>

Mon, May 11, 2020 at 2:33 PM

To: Open.Records@tsbep.texas.gov

For clarity and to include possible denial of examination, please consider changes to §882.3 Review and Appeal of License Denials as indicated below:

§882.3 Review and Appeal of License Denials

(a) An appellant whose application for examination or licensure has been denied by staff or committee, must submit a written request to the Council for review by the member board so it is received on or before the 30th day after the date on staff's or committee's denial letter. If an application for licensure is denied at the staff or committee level, the applicant will have 30 days from the date of denial as shown on the letter to submit a written request to the Council for review by the member board. The written request must be received on or before the 30th day following the date of denial for the request to be timely. If a timely written request for review is not made, the denial is final.

(1) Upon receipt of a timely written request for review by the member board, the Council shall schedule the requested review by the member board.

(2) A written request for review by the member board received after the 30th day will not be granted and the denial is final.

(b) An appellant whose application for examination or licensure has been denied by a member board, must submit a written request to the Council for a hearing at SOAH so it is received on or before the 30th day after the date on the member board's denial letter. If an application for licensure is denied by a member board, the applicant will have 30 days from the date of denial as shown on the letter to submit a written request to the Council for a hearing at SOAH. The Council must receive the written request on or before the 30th day following the date of denial for the request to be timely. If a timely request is made, the Council shall refer the contested case to SOAH for a hearing. If a timely written request is not made, the denial is final.

(1) Upon receipt of a timely written request for a hearing at SOAH, the Council shall refer the contested case to SOAH for a hearing.

(2) A written request for a hearing at SOAH received after the 30th day will not be granted and the denial is final.

(c) The Council shall render a final decision on an application for examination or licensure based upon the record following an appeal at SOAH. The final decision shall be in writing and shall be signed by the presiding officer for the Council or the Executive Director.

882.6 Limitations on Number of Examination Attempts

Jefferson Thomas
Helen Harris, Ed.D., LCSW

Jodie Elder, Ph.D., LPC-S, LMFT



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §882.6 Limitation on Number of Examination Attempts

2 messages

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Mon, May 11, 2020 at 2:57 PM

For clarity, please consider changes to §882.6 Limitation on Number of Examination Attempts as indicated below:

§882.6 Limitation on Number of Examination Attempts

(a) An applicant may take an examination administered or required by the Council no more than three times.

Failure to pass an examination subject to this rule within three attempts, will result in an automatic denial of an application.

(b) An applicant whose application is denied under this rule may reapply for licensure, but will not be allowed or approved to sit for the exam again until the applicant has submitted a detailed study plan designed to address the known or suspected areas of deficiency.

(1) The study plan must be approved by the relevant member board; and

(2) The applicant must submit proof of successfully completing the board-approved study plan before staff may approve up to three more exam attempts, before authorization will be given to retake the examination.

(c) Examinations which do not require pre-authorization by the Council to take, are not subject to this rule.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 12, 2020 at 9:01 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jodie Elder <jodie_elder@hotmail.com>

Fri, May 22, 2020 at 11:59 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To the Behavioral Health Executive Council:

I respectfully submit the attached public comment on the proposed rules published in the April 24, 2020 issue of the Texas Register.

Sincerely,

Jodie Elder

Jodie Elder, PhD, LPC-S, LMFT
Public Policy Committee Co-Chair, Texas Counseling Association
TCA Liaison to the Texas State Board of Examiners of Marriage and Family Therapists



Comments on BHEC Proposed Rules_04.24.20.docx
18K**Brenda Skiff** <brenda@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:58 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Comments on BHEC Proposed Rules_04.24.20.docx
18K

• **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

• **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

• **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.6 Limitations on Number of Examination Attempts

~~(a) An applicant may take an examination administered or required by the Council no more than three times. Failure to pass an examination subject to this rule within three attempts, will result in an automatic denial of an application. The number of examination attempts allowed for applicants will be determined by the member board authorized to set those requirements.~~

Rationale: The examination required for each specific licensure are created using independent norming groups and have varied difficulty levels and expected pass rates. Consequently, each independent licensing board should retain the right to set rules regarding the number of times

licensees are allowed to sit for the exams before they are denied application and therefore entrance into the field.

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)~~(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(f)~~(f) To be eligible for an emergency temporary license, an applicant must:

- (1) submit an application in the form prescribed by the Council; and
- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comment on Proposed Rules

2 messages

Harris, Helen <Helen_Harris@baylor.edu>

Sat, May 23, 2020 at 2:22 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Helen Harris and I am a licensed social worker, LCSW-S, #9514. I am a social work educator at the Garland School of Social Work/Baylor University.

Thank you for the opportunity to respond with comments specific to the Behavioral health Executive Council (BHEC) draft rules. This board and these rules are important to the effective and efficient provision of a social work workforce in Texas.

I have reviewed the draft carefully and have several comments/questions and recommendations and appreciate your willingness to consider these.

1. In times of disaster like we currently experience with COVID-19, is important that licensed social workers from other states be able to quickly receive emergency license to practice.
2. Here are my comments on specific parts of the proposed law with page number and section.

- Does the rotational nature of board member selection mean that there will be years without a social worker on the board?
- If the council/board decides on the qualifications for the Executive Director, might that impact the discipline(s) that are elevated or ignored for Executive Director qualifications?
- 881 Sick leave pool....why are more procedures needed than in the Government Code and Employees Retirement System of Texas etc. p. 15
- 882.2. Requires a transcript from the accredited institution....directly from the institution.

Current students can take the exam in their last semester of work. Does this eliminate that? P. 21

- p. 21 #5...SAVE...is this about making sure immigrants aren't getting any entitlements? Why would this be important if they have been students and may have needed help?
- Currently application for licensure is the ticket to taking the exam. This says you need exam results prior to applying for licensure. How does that work with ASWB? P. 21
- p. 23. 882.6. Previous licensure rules included provision for the rare student who is unable to pass the exam after three tries because of disabilities related to testing but who meets all other requirements and demonstrates promise as a practitioner. The provision was application to practice for several years under the close supervision of

a licensed practitioner who oversees the practice and at the end of the provisional time makes a recommendation regarding the candidate's licensure. In my 40 years of practice I have only worked with one graduate/practitioner who needed this provision but was able to practice successfully under supervision and then with her own license having successfully met the supervised practice requirement. I recommend the council consider this option for the new law.

- p. 43. 882.50-1. Random audits. Each month 10% of the licensees will be selected by an automated process....I assume this means 10% of those due for renewal for that month but this is not clear and suggests that 10% of all licensees would be selected each month indicating that 120% would be audited each year....a burdensome and expensive process.

- p. 46: 882.61 Special Licensing Provisions for Military Spouses. Thank you. Excellent change.

- p. 49. 882.70. Emergency Temporary License

The delay in licensing has been substantial in past years and an emergency temporary license has been available to those waiting for the state to process applications...particularly for those who need a license to secure or retain a job and whose licenses are held up through no fault of their own. I recommend that option for six month emergency temporary license be included.

Thank you again for the opportunity to respond.

Helen Harris

Helen Harris, Ed.D., LCSW

Associate Professor

Diana R. Garland School of Social Work

Baylor University

One Bear Place #97320

Waco, Texas 76798

(254) 710-4431

Helen_Harris@baylor.edu

She/her/hers

"Education is not the filling of a pail, but the lighting of a fire." – WB Yeats

"Our ability to reach unity in diversity will be the beauty and the test of our civilization" Ghandi

882.9 Established Application Processing Time

Katrina Daneshvar, MA
Kathleen Moore, LPC-S
Melissa Dilworth
Judy Jarratt, Ed.D., LPC
Jennifer Vasquez, LCSW
Ginger Chun
Naomi Freifreich
Laurie Stephens, LMSW-IPR
Tiffany Frias, LPC
Natalie Beck
Scott Bendle, M.Ed., LPC-S
Diane M. Benefiel
Jillian Bissar, LCSW
Elizabeth Hummert, LCSW
Emma Taylor, LCSW
Trey Johnson, LMSW
Linda Knewtson, LCSW
Angie Novak, LPC Intern
Ronald W. Prieto, LCSW
Rachel Slaymaker
Tara Ayala, LCSW
Anita Franz, LCSW
Lynn Panepinto, LMSW
Rolland Fellows, Ph.D.
Jan Friese, TCA ED
Mikayla Knight, LMSW

Sarah Stillwell, LPC
Penni Patterson, LCSW
Melissa Sutherland, LPC-S
Jenifer McLuskie, LMSW
Rebecca Cole, LCSW
Domenica Domingue
Susan Harnen, LCSW
Jennifer Canning
Gianna Viola, LCSW-S
Nancy Jo Long
Haley Williams
MaryAnn Kildebeck
Rose Mary Rodriguez
Charles Lavine, LPC
Ann Marie Haney, LCSW
Cheryl Jones, LMSW
Shannon Huggins, LCSW-S
Anatasia Deeter, LCSW-S
Carol Ann Ross, LMSW
Claire Woll
Virginia D. Manuel, LMSW-AP
Monica McCarthy
Pat Gleason-Wynn, Ph.D., LCSW
Joseph Hartsoe
Jodie Elder, Ph.D., LPC-S, LMFT



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments/suggestions for proposed BHEC rules

2 messages

Katrina Daneshvar <kdaneshvar@harmonytx.org>

Fri, May 1, 2020 at 2:47 PM

To: open.records@tsbep.texas.gov

I would like the comments/suggestions listed in the attached document to be thoughtfully considered for the proposed BHEC rules.

Respectfully,

Katrina Daneshvar, MA, LPC, NCC | District Behavioral Counselor | Houston North
(281) 444-1555 | 3203 North Sam Houston Pkwy W. Houston, TX 77038

Join Our Team: Apply Today



Harmony Core Values: #CharacterMatters, #DedicatedStaff, #WorkingTogether, #HighExpectations, #STEMforAll

DISCLAIMER: This e-mail transmission, and any documents, files or previous e-mail messages attached to it, may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this message is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify this sender.

Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 1, 2020 at 6:30 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) For purposes of subsection (d) of this section, the term "good standing" means there is ~~not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on proposed rules

2 messages

Sarah Stillwell <sarahstillwell88@gmail.com>

Fri, May 1, 2020 at 2:43 PM

To: open.records@tsbep.texas.gov

Please see the attachment.

--

Thank You,

Sarah Stillwell, LPC

Pronouns: She/Her/Hers

Dallas Counseling and Treatment Center

Gender-Affirming Mental Health Services, Dallas Resource Center

TAMU-Commerce Doctoral Student

Senator, Texas Counselors for Social Justice

Emerging Leader, Texas Association of LGBT Issues in Counseling

Welcoming
& Affirming

 Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 1, 2020 at 6:30 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

 Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not ~~current~~ disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Kathleen Moore <kmoorelpcs@gmail.com>

Sun, May 3, 2020 at 12:42 PM

To: open.records@tsbep.texas.gov

Please consider these attached suggestions.

Thank you.

Kathleen Moore LPC-S

President of the Bluebonnet Counseling Association of Texas Counseling Association

 **Comments_BHEC Proposed Rules_04.24.20 (2) (3).pdf**
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Sun, May 3, 2020 at 4:34 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

 **Comments_BHEC Proposed Rules_04.24.20 (2) (3).pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20

Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12

Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9.

Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not ~~current~~ disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:

 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Penni Patterson <pennipatterson@gmail.com>
To: open.records@tsbep.texas.gov

Mon, May 4, 2020 at 9:20 AM

Please implement the suggested changes to the rules on establishing BHEC.

Suggested Comments on BHEC Rules

• General Provisions

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

• Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

• Applications and Licensure

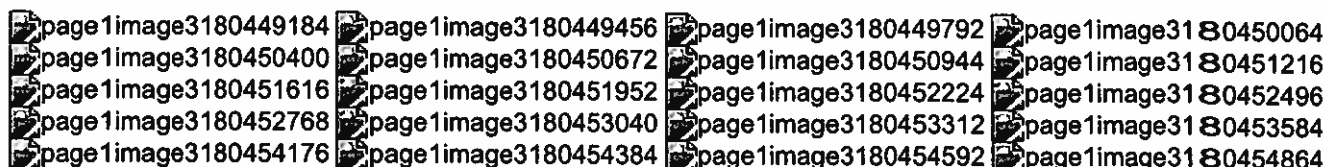
SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not

provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.



SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE §882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

- (1) the Governor declares a disaster under Government Code §418.014; and
- (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

- (1) the Governor declares a disaster under Government Code §418.014;
- (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
- (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
- (3) the applicant meets the requirements set forth herein below.

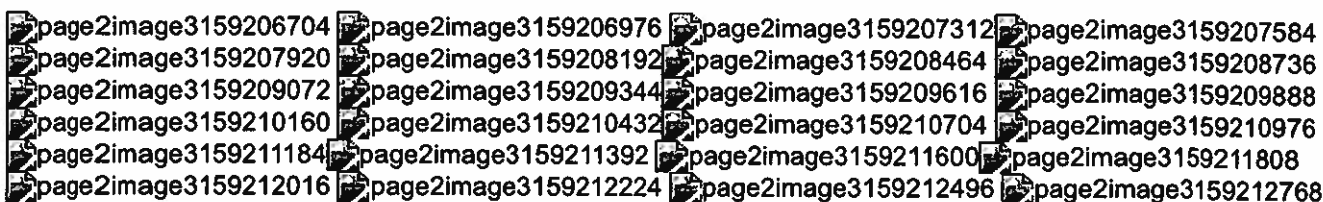
(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

- (1) submit an application in the form prescribed by the Council; and
- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.



page2image3159213040 page2image3159213312 page2image3159213584 page2image3159213856
page2image3159214128 page2image3159214400 page2image3159214672 page2image3159214944

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

page3image3160665024 page3image3160665232 page3image3160665440 page3image3160665712
page3image3160666048

• **Rationale:**

onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Thank you for the work you are doing during this time of emergency and always.

Sincerely,

Penni Patterson, LCSW

Penni Patterson, LCSW, MBA

This email and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to which they are addressed. This communication may contain material protected by HIPAA legislation (45 CFR, Parts 160 & 164). If you are not the intended recipient or the person responsible for delivering this email to the intended recipient, be advised that you have received this email in error and that any use, dissemination, forwarding, printing or copying of this email is strictly prohibited. If you have received this email in error, please notify the sender by replying to this email and then delete the email from your computer.

Brenda Skiff <brenda@tsbep.state.tx.us>

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 4, 2020 at 10:50 AM

Brenda Skiff
 Public Information Officer/
 Legal Assistant
 Texas State Board of Examiners of Psychologists
 333 Guadalupe, Ste 2-450
 Austin, TX 78701
 512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

comments on proposed rules 22TAC Chapter 881

2 messages

Melissa Dilworth <melissadarttherapist@gmail.com>

Mon, May 4, 2020 at 1:29 PM

To: open.records@tsbep.texas.gov

I support the following comments
Melissa Dilworth LPC-AT

Suggested Comments on BHEC Rules • General Provisions SUBCHAPTER B – RULEMAKING §881.20 Rulemaking by Executive Council (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may onlyalso review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns. (d) (pick up from notebook) Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent. • Complaints and Enforcement SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition. (c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule. Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays. • Applications and Licensure SUBCHAPTER A – LICENSE APPLICATIONS §882.9. Established Application Processing Time (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis. Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category. SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE §882.70. Emergency Temporary License. (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration. (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if: (1) the Governor declares a disaster under Government Code §418.014; and (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state. (c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if: (1) the Governor declares a disaster under Government Code §418.014; (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster; (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and (3) the applicant meets the requirements set forth herein below. (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first. (ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor. (df) To be eligible for an emergency temporary license, an applicant must: (1) submit an application in the form prescribed by the Council; and (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing. (e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration. (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date. (fh) An individual practicing under an emergency temporary license must: (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the

license number and instructions on how to verify the status of a license when initiating services with a patient or client; (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and (3) comply with all other applicable Council rules. (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license. • Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Melissa Dilworth <melissadarttherapist@gmail.com>

Mon, May 4, 2020 at 1:30 PM

To: open.records@tsbep.texas.gov

[Quoted text hidden]

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Melissa Sutherland <sutherlandlpc@gmail.com>

Mon, May 4, 2020 at 4:30 PM

To: open.records@tsbep.texas.gov

Dear BHEC Representative,

I am a Licensed Professional Counselor Supervisor and I appreciate all of the hard work that went into the proposed new rules published by BHEC on April 24, 2020. I understand comments and suggestions are being taken at this time. I would like to submit suggestions for the new rules. I have attached a copy of the rules that includes the suggestions I would like to have considered. Thank you for your time and consideration. I look forward to working with BHEC in the near future.

Respectfully,
Melissa L. Sutherland, LPC-S

 Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 4, 2020 at 6:25 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--
Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

 Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not ~~current~~ disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:

 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(#h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Jarratt, Judy <Judy.Jarratt@ttuhsc.edu>

Tue, May 5, 2020 at 12:06 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

As a member of the Texas Counseling Association I wish to submit the following recommendations.

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS**§882.9. Established Application Processing Time**

- (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE**§882.70. Emergency Temporary License.**

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice

marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Dr. Judy Jarratt, Ed.D., LPC, CSC

Senior Director for CATR (Campus Alliance Telehealth Resources)



Mailing - 3601 4th Street, STOP 7110, 79430

Phone: 8006-743-1887

judy.jarratt@ttuhsc.edu

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 5, 2020 at 1:59 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jenifer McLuskie <jmcluskie@sbcglobal.net>

Tue, May 5, 2020 at 4:10 PM

Reply-To: Jenifer McLuskie <jmcluskie@sbcglobal.net>

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Jenifer McLuskie I am a **licensed social worker (LMSW)** and I am a supervisor of four caseworkers who all work within social services to help undocumented children who have left immigration detention facilities and one caseworker who assists families who have exited family or other immigration detention facilities as they seek asylum in the United States.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jenifer McLuskie, LMSW (Texas) and LGSW (District of Columbia)

APPLICATIONS & LICENSURE
SUBCHAPTER A – LICENSE APPLICATIONS
§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide

adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b)

appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Jenifer McLuskie

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jennifer Vasquez <yogajena@gmail.com>

Tue, May 5, 2020 at 4:11 PM

To: open.records@tsbep.texas.gov

My name is Jennifer Vasquez and I am a licensed clinical social worker and PhD social work student. I am a full time Lecturer at Texas State School of Social Work and part time Lecturer at Lady of the Lake University School of Social Work.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Vasquez, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fn) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Jennifer Vasquez, LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Rebecca Cole <rebecca@rebeccacole.net>

Tue, May 5, 2020 at 4:13 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good Afternoon,

My name is Rebecca Cole and I am a **licensed clinical social worker**. I am a licensed clinical social worker for the Harris Center, the local mental health authority for Harris County, Texas. I provide crisis intervention paired with a licensed peace officer with Houston Police Department. I am the only social worker on my team. I take pride in my ability to provide this service to my community in my community and represent the social work field as well.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Rebecca Cole, LCSW

281-799-9416

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)~~ (b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(f)~~ (f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ (h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Ginger Chun <gmainchun@gmail.com>

Tue, May 5, 2020 at 4:43 PM

To: open.records@tsbep.texas.gov

My name is Ginger Chun and I am a student working on a master's degree in social work. I am already working in the social work field providing case management and mentorship to individuals experiencing homelessness as well as to families and individuals experiencing hardship.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ginger Chun

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must may only also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

~

Ginger Chun
210-875-1392

"Be kind, it costs nothing"

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules

2 messages

Domenica (Domino) Domingue <pretty_domino@yahoo.com>

Tue, May 5, 2020 at 4:49 PM

To: open.records@tsbep.texas.gov

My name is Domenica Domingue and I am a **licensed social worker/social work student**. I work with dialysis patients in an outpatient setting as an LMSW providing patients with ways to cope with their normal and assist with getting insurance and transplants.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Domenica Domingue

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(e)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

NAOMI FREIREICH <naomifreireich@yahoo.com>

Tue, May 5, 2020 at 5:04 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Naomi Freireich and I am a **licensed social worker. I have a private practice in Austin and work with adults and adolescents struggling with mental health issues.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is

broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:51 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Harnden, Susan C <susan.harnden@austin.utexas.edu>

Tue, May 5, 2020 at 5:51 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

ADVOCACY ALERT – Improve the Licensing Board!

Submit Comments before May 22, 2020

The Texas Behavioral Health Executive Council (BHEC) established in **HB 1501** (86R) will become fully operational on September 1, 2020. All behavioral health licensing boards – including the Texas State Board of Social Work Examiners – will be housed at BHEC which will be responsible for the administrative management of each board, including processing licenses, managing complaints, and overall operations.

The proposed rules are extensive because they establish all functions for a brand new state agency. It is essential that these rules be carefully vetted to ensure they align with the legislative intent of HB 1501 and preserve the authority of each independent licensing board housed at BHEC.

The National Association of Social Workers - Texas (NASW-TX) along with the Texas Society for Clinical Social Work (TSCSW), the Texas Counseling Association (TCA), the Texas Association of Marriage and Family Therapists (TAMFT) and the Texas Psychological Association (TPA), was provided a preview of the proposed rules and an opportunity to provide stakeholder input at the December BHEC meeting. Many of our suggestions were adopted and are reflected in the published rules. **However, several important revisions were not made, including licensure fees.**

NASW/TX, in partnership with TCA, TSCSW, TAMFT and TPA, did a thorough review of the published rules and will be submitting a unified statement requesting additional, important changes.

We need your help!

A large volume of comments is needed. It is essential that all licensees review the proposed rules and submit comments.

The proposed rules were published in the April 24, 2020 issue of the Texas Register.

Please feel free to use **the email template** at the end of this email as well as any other revisions that you identify.

My name is Susan Harnden, I am a Licensed Clinical Social Worker at the University of Texas at Austin Employee Assistance Program. I serve the employees of the university.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that

BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.

2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Susan Harnden, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

- (1) submit an application in the form prescribed by the Council; and
- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or

ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Susan Harnden, LCSW, CEAP | Director, HealthPoint: Balance & Well-being in Work & Life | pronouns: she/her | The University of Texas at Austin | UTA 1616 Guadalupe 2.304 | 512.471.3366 | Direct Line 471-9105

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:52 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments

2 messages

Laurie Stephens <lasstephens61@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 6:39 PM

My name is Laurie Stephens, LMSW-IPR and I am a hospice social worker in the Houston area.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Laurie Stephens, LMSW-IPR

TX 28933

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(e) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC draft rules

2 messages

Jen C <jennifercanning1979@gmail.com>
 To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 6:50 PM

My name is Jennifer Canning and I am a social work student.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Canning

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must may only also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC rules

2 messages

Tiffany Frias <tiff.frias@gmail.com>

Tue, May 5, 2020 at 6:55 PM

To: open.records@tsbep.texas.gov

Please consider making the following changes to the proposed rules for the Texas Behavioral Health Executive Council

General Provisions SUBCHAPTER B – RULEMAKING §881.20 Rulemaking by Executive Council (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns. (d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent. • Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition. (c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule. Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays. • Applications and Licensure

SUBCHAPTER A – LICENSE APPLICATIONS §882.9. Established Application Processing Time (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis. Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category. SUBCHAPTER G – EMERGENCY

TEMPORARY LICENSE §882.70. Emergency Temporary License. (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration. (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if: (1) the Governor declares a disaster under Government Code §418.014; and (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state. (c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if: (1) the Governor declares a disaster under Government Code §418.014; (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster; (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and (3) the applicant meets the requirements set forth herein below. (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first. (ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor. (df) To be eligible for an emergency temporary license, an applicant must: (1) submit an application in the form prescribed by the Council; and (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing. (e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration. (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must

submit a renewal application on a board-approved form on or before the license expiration date. (fh) An individual practicing under an emergency temporary license must: (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client; (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and (3) comply with all other applicable Council rules. (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license. • Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

--

Tiffany Frias, LPC

210-396-1944

blackbirdcounselingandwellness.com

Because we cannot guarantee confidential and timely communication by email, it is the general practice of Blackbird Counseling & Wellness, PLLC not to communicate with clients by email. If you choose to email this address, please be aware that internet email is not a secure medium and others may be able to read your messages and my responses.



Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:55 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Gianna Viola <giannaviola@gmail.com>
 To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 7:12 PM

My name is Gianna Viola and I am a **licensed social worker (LCSW-S)** in Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Gianna Viola, LCSW-S, CGP

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(g)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Gianna Viola, LCSW-S, CGP

Viola Therapy, PLLC

Psychotherapy & Clinical Supervision

512.942.7798

giannaviola.com

Please note that email is not considered a secure medium; confidentiality cannot be ensured.

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:55 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Natalie Beck <natalie.d.beck@gmail.com>

Tue, May 5, 2020 at 7:22 PM

To: open.records@tsbep.texas.gov

Good afternoon,

My name is Natalie Beck and I am a Licensed Clinical Social Worker and Board-Approved Supervisor. I am a social work professor at a university here in Austin.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Natalie Beck

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must may only also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

NJ Long <tjnjl@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 12:16 AM

Hello,

My name is Nancy Jo Long and I have a masters in social work and I am a candidate for licensure in the State of Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Nancy Jo Long

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(d)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g)(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Scott Bendle <scott.bendle.lpc@gmail.com>

Wed, May 6, 2020 at 8:00 AM

To: open.records@tsbep.texas.gov

Good day!

I would like to endorse the proposed changes suggested by the Texas Counseling Association viewable at the following link:

TCA Suggested Changes to Proposed Rules 22TAC Chapter 881

If you have any questions, please feel free to contact me.
Thank you!

Sincerely,
Scott Bendle, MEd, LPC-S
(210) 427-0149

:

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not ~~Current~~ disciplinary action on the out-of-state license, certification, or registration.
- (~~a~~)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (~~b~~d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (~~e~~e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (~~d~~f) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Haley Williams <hbwilliams93@gmail.com>

Wed, May 6, 2020 at 9:04 AM

To: open.records@tsbep.texas.gov

Hello,

My name is Haley Williams and I am a licensed social worker. I work with college students, particularly those with learning disabilities and mental health issues.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Haley Williams

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(gi)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881.

Haley Williams

Texas Ex | Class of 2016

Master's of Social Work, University of Texas, 2018

Phone: 913-775-0512

hbwilliams93@gmail.com

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Diane Benefiel <dbenefiel@menninger.edu>

Wed, May 6, 2020 at 10:07 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To Whom It May Concern:

My name is Diane M. Benefiel and I am a licensed clinical social worker with supervision. I work at a psychiatric hospital in an inpatient unit. I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Diane M. Benefiel

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

• Rationale: One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words “must also” implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

Diane M. Benefiel, LCSW, LCDC-I
Sr. Social Worker/Addictions Counselor
The Menninger Clinic



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

MaryAnn Kildebeck <MaryAnn@kildebeck.us>
 To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>
 Cc: MaryAnn Kildebeck <MaryAnn@kildebeck.us>

Wed, May 6, 2020 at 10:29 AM

My name is MaryAnn Brooks Kildebeck, LCSW, and I am a **licensed social worker/social work student**.
Optional: provide details about your job position and the clients you serve.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881

MaryAnn Kildebeck, LCSW

Direct: 972-377-6400

Fax: 855-856-6484

1015 West Oak Street

Denton, TX 76201

(In the Historic District, so no signage is allowed. This is a two-story brown brick building with a red tile roof.)

8668 John Hickman Pkwy. #905

Frisco, TX 75035

(At the NE corner of John Hickman and Legendary Drive. It is the SECOND building east of Legendary Drive.)

PO Box 1647

Denton, TX 76201

HAVE ALL MAIL SENT HERE

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 10:38 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jillian Bissar <jillianbissar@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 12:31 PM

My name is Jillian Bissar, LCSW and I am a **licensed social worker/social work student**. I work with cancer patients at one of the top cancer hospitals in the country right here in the great state of Texas. Our patients come from all over the country and world to receive care at our facility.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jillian Bissar, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments BHEC draft rules

2 messages

Rose Mary Rodriguez <rmrod87@yahoo.com>

Wed, May 6, 2020 at 12:48 PM

To: open.records@tsbep.texas.gov

My name is Rose Mary Rodriguez from El Paso, Texas, and I am a **Licensed Clinical Social Worker**. I have been working with the Las Palmas Kidney Transplant Center for the last 3 years serving patients who are being evaluated for a kidney transplant or have already received a transplant. I have 40 years post-graduate experience in the areas of vocational rehabilitation, medical social work, and school social work addressing individuals with special needs.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged. I also bring to your attention that social worker's salaries are not adequate so any increase in licensing rates impact the decisions of trained social workers to remain in the profession as opposed to entering another sector of employment for better pay.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely

Rose Mary Rodriguez, LCSW/ C-ASWCM

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide

adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

~~(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and~~

~~(3) the applicant meets the requirements set forth herein below.~~

~~(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.~~

~~(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.~~

~~(ef) To be eligible for an emergency temporary license, an applicant must:~~

~~(1) submit an application in the form prescribed by the Council; and~~

~~(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh) An individual practicing under an emergency temporary license must:~~

~~(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;~~

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b)

appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 12:56 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Elizabeth Hummert <Elizabeth.Hummert@gpsd.org>

Wed, May 6, 2020 at 3:34 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Elizabeth Hummert and I am a Licensed Clinical Social Worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Elizabeth Hummert

LCSW - Supervisor #40267

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report

will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(efi)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As

proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Elizabeth "Liz" Hummert, LCSW, Clinical Supervisor

Student Mental Health and Safety Advisor

Grand Prairie ISD

972-522-7074



Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 6:39 PM

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments

5 messages

Charles Lavine <clavine1@att.net>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 12:53 PM

To Whom It May Concern:

Attached are my comments to proposed new rules under consideration by the Texas Behavioral Health Executive Council.

My proposed deletions are indicated by strikethroughs, and proposed additions and changes are indicated in red type.

I am a Licensed Professional Counselor (license # 13146), and a current member of the Texas Counseling Association (TCA). TCA is encouraging its members to read the proposed rules and offer comments.

Respectfully,

Charles Lavine, LPC.

 **Comments BHEC.pages**
354K

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 5, 2020 at 1:59 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

 **Comments BHEC.pages**
354K

Patrick Hyde <general.counsel@tsbep.state.tx.us>
To: Brenda Skiff <brenda@tsbep.state.tx.us>

Tue, May 5, 2020 at 4:06 PM

Brenda:

I wasn't able to view this guy's attachment were you? If not we can check with Pat to make sure we download it correctly.

Thanks,

Patrick Hyde
General Counsel
Texas State Board of Examiners of Psychologists
333 Guadalupe, Suite 2-450
Austin, Texas 78701
Tel.: 512-305-7700
Fax: 512-305-7701

general.counsel@tsbep.state.tx.us

NOTICE: This communication may be confidential and/or privileged under law, specifically including Rule 192 of the Texas Rules of Civil Procedure, Article V of the Texas Rules of Evidence, Section 501.205 of the Texas Occupations Code, and other applicable statutory, quasi-statutory, and common law authorities. Additionally, pursuant to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and court interpretations thereof, the information that is contained within this communication may not be subject to disclosure to the public and further may be protected from disclosure or production for other purposes. This information is intended for the exclusive use of the addressee or addressees named above. If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee name above), copying or the taking of any action because of this information is strictly prohibited. If you have received this information in error, please immediately notify me by telephone to arrange for the return of the document.

[Quoted text hidden]

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 7:09 AM

I couldn't either.

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]

Patrick Hyde <general.counsel@tsbep.state.tx.us>
To: Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:30 PM

Attached is a Word version of what was sent.

Patrick Hyde
General Counsel
Texas State Board of Examiners of Psychologists
333 Guadalupe, Suite 2-450
Austin, Texas 78701
Tel.: 512-305-7700
Fax: 512-305-7701
general.counsel@tsbep.state.tx.us

NOTICE: This communication may be confidential and/or privileged under law, specifically including Rule 192 of the Texas Rules of Civil Procedure, Article V of the Texas Rules of Evidence, Section 501.205 of the Texas Occupations Code, and other applicable statutory, quasi-statutory, and common law authorities. Additionally, pursuant to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and court interpretations thereof, the information that is contained within this communication may not be subject to disclosure to the public and further may be protected from disclosure or production for other purposes. This information is intended for the exclusive use of the addressee or addressees named above. If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee name above), copying or the taking of any action because of this information is strictly prohibited. If you have received this information in error, please immediately notify me by telephone to arrange for the return of the document.

[Quoted text hidden]

 **Comments BHEC.docx**
486K

Comments on BHEC Rules

• General Provisions

SUBCHAPTER B - RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

• Complaints and Enforcement

SUBCHAPTER B - INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

• Applications and Licensure

SUBCHAPTER A - LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G §882.70.

- EMERGENCY TEMPORARY LICENSE

Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)~~ (b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice

marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and~~

~~rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below. ~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(c)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ (f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction. ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ (h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- Rationale:

onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

The unprecedented severity and magnitude of the current outbreak has shed some light



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Taylor, Emma <Emma_Jones@baylor.edu>

Wed, May 6, 2020 at 4:14 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Emma Taylor and I am an LCSW. I work as a therapist for children and adolescents with chronic illnesses, and I am also a faculty member and lecturer in an MSW program.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Emma Taylor, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and

appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ *may* solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ *may* specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Emma Taylor, LCSW

Lecturer

Diana R. Garland School of Social Work

Baylor University - Houston Extension

Email: emma_jones@baylor.edu

4100 S. Main St.
Houston, TX 77002

Cell Phone: 713-907-4616

She, her, hers

Confidentiality Notice: The documents accompanying this Email transmission contains confidential information belonging to the sender that is legally privileged. This information is intended only for the use of the individual or the entity named above. If you are not the intended recipient, you are hereby notified that any disclosures, copying, distribution or the taking of any action in reliance on the contents of the email information is strictly prohibited.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:01 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

3 messages

Ann Marie Haney <amhaney@live.com>

Wed, May 6, 2020 at 4:24 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good afternoon,

My name is Ann Marie Haney, and I am a licensed clinical social worker. I provide outpatient behavioral health services at Hope Clinic, a Federally Qualified Health Center in Waxahachie, TX. We serve patients regardless of their ability to pay, providing increased access to care for our community.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ann Marie Haney, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

- a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for

each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(d) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

- (c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

- (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Mary Jo Kraus <maryjoannekraus@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 5:32 PM

My name is Dr. Mary Joanne Kraus and I am a **licensed clinical social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

I would like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Dr. Mary J. Kraus, LCSW
19206 Huebner Rd. #104
San Antonio, TX 78258
(v) 706-247-3515
(f) 210-499-4956
www.mjkfamilytherapy.com
maryjoannekraus@gmail.com

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:02 AM

Brenda Skiff
Public Information Officer/
Legal Assistant



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Trey Johnson <ctreyjohn@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 9:15 PM

My name is Trey Johnson and I am a licensed master social worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Trey Johnson, LMSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

~~(g) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

~~(c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:~~

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

~~(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and~~

~~(3) the applicant meets the requirements set forth herein below.~~

~~(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.~~

~~(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.~~

~~(ef) To be eligible for an emergency temporary license, an applicant must:~~

~~(1) submit an application in the form prescribed by the Council; and~~

~~(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.~~

~~(fh) An individual practicing under an emergency temporary license must:~~

~~(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;~~

~~(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and~~

~~(3) comply with all other applicable Council rules.~~

~~(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.~~

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ *may* solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ *may* specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ *may only also* review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Cheryl Jones <chcjones@gmail.com>

Thu, May 7, 2020 at 7:36 AM

To: open.records@tsbep.texas.gov

Good morning,

My name is Cheryl Jones, LMSW and I am a licensed social worker in Dallas working for a social service agency full time and a local hospital system on the weekends.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Cheryl Jones, LMSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:03 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Linda Knewton <LKnewton@menninger.edu>

Thu, May 7, 2020 at 9:03 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Linda Knewton and I am a licensed clinical social worker employed at The Menninger Clinic in Houston. We serve patients with psychiatric illness.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature is a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Linda Knewton, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. ~~These~~ figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014; and

~~(2)~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014;

~~(2)~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional

counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out of state license, certification, or registration.~~

(g) _____ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gj) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying_would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes_would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary_flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing

standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Linda Knewtson, LCSW-S

Social Worker

CPAS

The Menninger Clinic

12301 Main Street

Houston, TX 77035

lknewtson@menninger.edu

Phone: 713-275-5078

Fax: 713-275-5490



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Shannon Huggins <shannon@shannonhuggins.com>
 To: open.records@tsbep.texas.gov

Thu, May 7, 2020 at 11:49 AM

To Whom It May Concern:

My name is Shannon Huggins and I am a licensed clinical social worker and supervisor in private practice where I treat children and families as well as adults with psychiatric illness. I appreciate being able to provide the following comments on the Texas Behavioral Executive Council (BHEC) draft rules. I want to use this opportunity to improve the licensing board to better serve all social workers in the state. We need an efficient and skilled board to function at its highest capacity to help social work professionals meet the many needs of Texans, especially during the time of COVID-19.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points.

1) BHEC Discretion re: Emergency License - COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing.

2) Licensing Rates - It is disappointing to see that our social work licensing rate has increased. Social workers already struggle with immense backlogs and delays with licensing applications and renewals. As rates have increased, board responsiveness to critical licensing needs has decreased. I ask that BHEC rules keep social work licensing rates unchanged.

Thank you for allowing me to provide feedback on the BHEC rules. I look forward to working together to improve board processes for social work licensure.

Sincerely,
 Shannon Huggins, LCSW-S, BCD

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) ~~the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(e)(i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

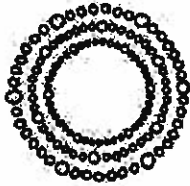
GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

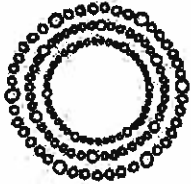
- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words “must also” implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.



SHANNONHUGGINS
LCSW-S·BCD

Psychotherapist and Board Approved Supervisor
Clinical Director Open City Psychotherapy
8133 Mesa Drive, Suite 104 Austin, TX 78759
Phone 512.538.0558 / Fax 512.538.0598
shannon@shannonhuggins.com / www.shannonhuggins.com

This email and its attachments may contain privileged and confidential information and/or protected health information (PHI) intended solely for the use of Shannon Huggins, LCSW-S, BCD and the recipient(s) named above. If you are not the recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any review, dissemination, distribution, printing, or copying of this email message and/or any attachments is strictly prohibited. If you have received this transmission in error, please notify the sender immediately at 512-538-0558 and permanently delete this email and any attachments.



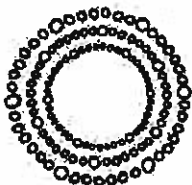
PastedGraphic-1.tiff
23K

SHANNONHUGGINS
LCSW-S·BCD

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 12:05 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



PastedGraphic-1.tiff
23K

SHANNONHUGGINS
LCSW-S·BCD



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on BHEC Rules

1 message

Angie Novak <angie.novak@pisd.edu>

Thu, May 7, 2020 at 4:04 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To Whom it May Concern,

As a proud member of the Texas Counseling Association, I am very passionate about promoting professional counselors. Please consider my proposed comments in the attached document.

Our fellow Texans deserve access to mental health workers, especially when the mental health needs increase as the impact of this epidemic continues.

Best Regards,
Angela Novak LPC-Intern
Plano, Texas

**Comments_BHEC Proposed Rules_04.24.20.pdf**

127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Deeter, Anastasia L. <aldeeter@texaschildrens.org>
To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Thu, May 7, 2020 at 11:33 AM

Good morning,

My name is Anastasia Deeter and I am a Licensed Clinical Social Worker (LCSW). For the past five years I have worked at Texas Children's Hospital providing services to children and families. In my role I often provide crisis intervention, supportive counseling, psychosocial education, case management, and complete a variety of assessments. I also serve on our leadership team and assist with ensuring best patient practices, as well as coordinate all of our social work internship opportunities. In addition, I also serve as a Board Approved Clinical Supervisor.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommended and the sections covered. I would also like to highlight two important points.

1. BHEC Discretion re: Emergency License – COVID 19 has shown that social work licensure across states can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing rates – it is incredibly disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. For instance, I have one supervisee who is still waiting to hear back from the board on acknowledgement of their completion of LCSW supervision and approval to sit for their exam; it has been nearly four months. The students I work with often report it taking between two to six months, four months appearing to be average, to receive approval to sit for their LMSW examinations. We continue to see licensing rates grow without any changes to show for it. If I am to read the proposed rules correctly, I can assume that my renewal rates as an LCSW-Supervisor will increase by \$113 per renewal period, that is over \$55 increase per year. We ask that the BHEC rules to keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Anastasia

Anastasia Deeter, LCSW-S

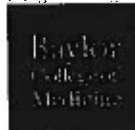
Clinical Specialist- Student Programming
Instructor- Baylor College of Medicine

1102 Bates Ave, Ste 1930
Houston, TX 77030

Direct	Pager	Fax
832-824-0729	832-824-2099	832-825-6366



Affiliated with



Applications & Licensure

SUBCHAPTER A- License Applications

882.9. *Established Application Processing Time*

A. The Council shall publish the minimum, maximum and median times for processing applications by by each license type during the preceding 12-month period on its website, together with a justification for each of the periods. These figures will be updated on an annual basis.

- a. **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G- Emergency Temporary License

882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a-b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) The Governor declares a disaster under Government Code 418.014; and

(2) The person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) the Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) The Governor declares a disaster under Government Code 418.014;

(2) The person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under 418.014 and issues a proclamation in accordance with the Government Code 418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(3) The Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(4) The applicant meets the requirements set forth herein below.

~~(b d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work with in the disaster designated by the governor.

~~(d f)~~ to be eligible for an emergency temporary license, an applicant must:

(1) Submit an application in the form prescribed by the Council; and

~~(2)~~ Submit written verification that the applicant is actively licensed, certified, or registered to practice marriage and family therapy, professional counseling, psychology, or social work in another jurisdiction and the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f h)~~ An individual practicing under an emergency temporary license must:

(1) Display a copy of the emergency temporary license in a conspicuous location when delivering services or provide written notification of the license number and instructions on how to verify the status of a license when initiation services with a patient or client;

(2) Provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) Comply with all other applicable Council rules.

~~(g i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

Rationale: The unprecedented severity and magnitude of the current outbreak has shown some light on appropriate disaster response provisions for health care providers. The proposed language referring to practical agency discretion is far more restrictive than current practice, and arguably conflicting with Government Code 418.117. The suggested language addresses these concerns by codifying the license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has

a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, the BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B- Investigation and disposition of complaints

884.12 Complaint Disposition

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering contested enforcement matter if there are concerns about the standard of care or ethical practices showed by the licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in 507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practices required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standard therefore must be required to consult with member boards when these issues arise in context of enforcement matters. The benefits of engaging each board outweighs any potential processing delays. _

-

GENERAL PROVISIONS

-

SUBCHAPTER B- Rulemaking

881.20- Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each separate member board for anti-competitive impacts, administrative consistency, and good governance concerns

Rationale: 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Health Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed 881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as the legislative intent.

CONFIDENTIALITY NOTICE:

The information in this e-mail may be confidential and/or privileged. If you are not the intended recipient or an

authorized representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this e-mail and its attachments, if any, or the information contained herein is prohibited. If you have received this e-mail in error, please immediately notify the sender by return e-mail and delete this e-mail from your computer system. Thank you.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:33 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

roniprieto@elp.rr.com <roniprieto@elp.rr.com>

Thu, May 7, 2020 at 4:08 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Ronald W. Prieto and I am a Licensed Clinical Social Worker. I have just retired my position as Director of Case Management from an acute inpatient physical rehabilitation hospital, which I held for the past 20 years. Prior to that, I had ten years experience working in both inpatient and outpatient psychiatric settings. I began my work experiences before there was any licensure by the state of Texas. Thus, I am keenly aware of the need of having an efficient licensing board who is aware of the functions and scope of services for social workers.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ronald W. Prieto, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ ~~may~~ ~~only~~ ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Subject line: Comments on Proposed Rules 22TAC Chapter 881.

statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:33 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Carol Ann Ross <carolann@daringventures.com>
To: open.records@tsbep.texas.gov

Thu, May 7, 2020 at 3:49 PM

Dear Texas State Board representative,

My name is Carol Ann Ross and I am a **licensed social worker**. I work for a small group practice that serves individuals, couples and families impacted by addiction.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. **BHEC Discretion re: Emergency License** – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates:** It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Carol Ann Ross, LMSW, CSAT, CMAT

Therapist | Addiction Specialist

Daring Ventures, Counseling, Coaching and Consulting, LLC

Certified Sex Addiction Therapist

Certified Multiple Addiction Therapist

DaringVentures.com

1.855.602.2554



APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(gi)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would-current~~ practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or

ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ ~~may only~~ ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Rachel Slaymaker <rxw99a@acu.edu>

Thu, May 7, 2020 at 9:20 PM

To: open.records@tsbep.texas.gov

My name is Rachel Slaymaker, and I am a **licensed social worker. I am also a social work educator who helps prepare students for licensure in the State of Texas.** I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(gi)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

--
Rachel Slaymaker, LMSW, EdD Candidate

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881

Associate Professor
Director of Field Education
Associate Director of the School of Social Work
Abilene Christian University
ACU Box 27866
Abilene, Texas 79699
325.674.2072 (main office)
325.674.2142 (direct ext)
www.acu.edu/socialwork

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Edits to HB 1501

2 messages

Claire Woll <clairemwoll@gmail.com>

Fri, May 8, 2020 at 10:58 AM

To: open.records@tsbep.texas.gov

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

My name is Claire Woll and I am a **licensed social worker providing counseling and mental health services to children, adolescents and young adults in Texas.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Claire Woll

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ else review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed

§881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 11:18 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Tara Ayala LCSW <taraayalalcs@gmail.com>
To: open.records@tsbep.texas.gov

Fri, May 8, 2020 at 2:32 PM

My name is Tara Ayala_and I am a **licensed social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Tara Ayala

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)d~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881.

Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Sent from my iPhone

Brenda Skiff <brenda@tsbep.state.tx.us>

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 2:30 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Virginia Manuel <v.manuel.msw@gmail.com>
To: open.records@tsbep.texas.gov

Fri, May 8, 2020 at 7:24 PM

My name is Virginia D. Manuel, LMSW-AP and I am a **licensed social worker**. In my 43 years of practice, I have always worked in public or non-profit organizations which serve the lowest income individuals in Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Virginia D. Manuel, LMSW-AP

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical

delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

National Association of Social Workers, Texas Chapter (NASW/Texas)

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Anita Franz <anitafranzlcs@gmail.com>

Fri, May 8, 2020 at 8:44 PM

To: open.records@tsbep.texas.gov

My name is Anita Louise Franz, and I am a **licensed clinical social worker** providing play therapy to children ages 3 - 11.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Anita Louise Franz, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Anita Louise Franz, LCSW
13706 Research Blvd Ste. 205
Austin, TX 78750

anitafranzlcsw@gmail.com
512-765-5705

****Please be aware that e-mail--and any form of electronic communication--is Social not a secure or confidential means of sending information. Be cautious when disclosing sensitive or private materials, as your message becomes the property of third parties (your server and your recipient's server). If you receive this or any e-mail communication in error, please contact the sender immediately and delete the message and any attachments/files. Copying, disclosing, or distributing the content of such electronic messages is prohibited.****

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Improving the Texas Behavioral Health Executive Council (BHEC)

1 message

Monica McCarthy <mrmccarthy4@gmail.com>
 To: open.records@tsbep.texas.gov

Sat, May 9, 2020 at 1:54 PM

To Whom it May Concern,

My name is Monica McCarthy I am a **Licensed Master Social Worker**. I currently work as a Program Specialist to the Texas Section 811 Project-Based Rental Assistance Program, which provides rental assistance to over 400 adults with disabilities and their households, allowing them to live in the community instead of an institution.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Monica McCarthy

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

--
Monica McCarthy, LMSW
Pronouns: she/her/hers
Email: mrmccarthy4@gmail.com
Phone: 847-477-6986



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Lynn Panepinto <lpnepinto@utexas.edu>
To: open.records@tsbep.texas.gov

Mon, May 11, 2020 at 2:29 PM

Hello,

My name is Lynn Panepinto and I am a **licensed master social worker (LMSW)** in Austin. I work as a bilingual counselor with survivors of violence and abuse at a nonprofit organization.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. **BHEC Discretion re: Emergency License** – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates:** It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Lynn Panepinto, LMSW
Pronouns: she/her/hers
MSSW, School of Social Work
MA, Lozano Long Institute of Latin American Studies
lpnepinto@utexas.edu

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)d~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)g~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)f~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)_____~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)h~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed

§881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881

2 messages

Pat Gleason-Wynn <drpgw@yahoo.com>

Mon, May 11, 2020 at 7:24 PM

Reply-To: Pat Gleason-Wynn <drpgw@yahoo.com>

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Pat Gleason-Wynn, PhD, LCSW. I am a Licensed Clinical Social Worker who works with older adults and their caregivers both in the community and in healthcare. I have been a social worker for 40 years.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need **an efficient and skilled board** to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.**

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

Pat Gleason-Wynn, PhD, LCSW, CSW-G
5009 Sheridan Court, Arlington, TX 76017

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(ej) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Pat Gleason-Wynn, PhD, LCSW, CSW-G

Happiness does not depend on accumulating more things, but on the mindset we have concerning the things we already do possess. Fulton Sheen, Finding True Happiness

Brenda Skiff <brenda@tsbep.state.tx.us>

Tue, May 12, 2020 at 9:06 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881

1 message

Arthur Rolland Fellows <arfellows@gmail.com>

Mon, May 18, 2020 at 7:26 AM

To: open.records@tsbep.texas.gov

I am submitting comments on the Subject line: Comments on Proposed Rules 22TAC Chapter 881.

Below are comments to the rules for the The Texas Behavioral Health Executive Council. I am suggesting that changes be made to the rules that establish the TBHEC that reflect the proposed changes in the rules below.

Attached is a PDF document with my suggestions.

Thank you for considering my suggestions.

Rolland Fellows, PhD
4131 Spicewood Springs
Suite G-6
Austin, TX 78759
Work/Cell : 512-346-1796

Full Name: Arthur Rolland Fellows

Proposed changes:

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- ~~(a)~~(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- ~~(b)~~(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- ~~(e)~~(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- ~~(d)~~(f) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 8812 messages

Joe K. Hartsoe <joehartsoe@gmail.com>

Thu, May 21, 2020 at 10:16 AM

To: open.records@tsbep.texas.gov

To Whom It May Concern:

My name is Joseph Hartsoe and I am a social work student who has graduated and waiting for my license to be issued any day. My previous experience and future area of practice is working with youth in the school setting to provide social and emotional support with education to enhance their functioning, increase matriculation, and entrance into the Texas society as contributing members to our communities.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. Our profession continue to see licensing rates grow without any change to show for it. I ask that BHEC rules keep our rates unchanged.
 1. The renewal fee on LMSW/LCSW licenses is of particular concern when compared to the renewal fee of LPC's. LMSW practitioners do not have the same independent practice authority as LPC holders but yet, your proposed plan outlines that the two be charged the same rate for their license renewal each cycle.
 2. Further, it is unfortunate to see that LCSW practitioners are required to pay more than LPCs for their license renewal. LCSW's traditionally offer comparable services in psychotherapy and independent practice authority, yet, the board's current proposal state that LCSW's be charged more for their license renewal compared to their LPC colleagues.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Joseph Hartsoe

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another

~~jurisdiction and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g)_____An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying_would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes_would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary_flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS**SUBCHAPTER B – RULEMAKING****§881.20 Rulemaking by Executive Council**

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:56 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment on Proposed BHEC Rules

2 messages

Jan Friese <Jan@txca.org>

Thu, May 21, 2020 at 8:59 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

Cc: "Will Francis - National Association of Social Workers/Texas Chapter (WFrancis@naswtx.org)" <WFrancis@naswtx.org>, Tris Castaneda <tcastaneda@longbow-partners.com>, "Mark Hanna (mhanna@markjhanna.com)" <mhanna@markjhanna.com>, TPA Executive Director <jessica@texaspsyc.org>

Thank you for the opportunity to comment on the Texas Behavioral Health Executive Council proposed rules. I am submitting the attached letter on behalf of the National Association of Social Workers, Texas Chapter; the Texas Association for Marriage and Family Therapy; the Texas Counseling Association; the Texas Psychological Association; and the Texas Society for Clinical Social Work. It reflects our collective comments on the rules published in the April 24th issue of the *Texas Register*.

We appreciate the opportunity to work with you on the successful launch of BHEC and appreciate your consideration of these suggested modifications to the published rules.

Jan Friese

Executive Director

Texas Counseling Association

www.txca.org

512-472-3403, ext 11

TCA: Professional Counselors committed to advocacy, leadership and the promotion of professional excellence.

Renew or Join Today!

TCA leads, educates and advocates to advance the counseling profession, to increase access to professional counselors, and to promote wellness.

TexasBehavioralHealthExecutiveCouncil_ProposedRules_PublicComment_Behavioral Health Coalition_05.21.20.pdf
271K



Texas Society for Clinical Social Work



May 15, 2020

Coalition Comments on Texas Behavioral Health Executive Council DRAFT RULES

The mental health professional associations listed above represent Licensed Marriage and Family Therapists, Licensed Professional Counselors, Psychologists and Social Workers. The comments herein reflect our collective efforts to ensure the successful launch and functioning of the newly created Texas Behavioral Health Executive Council (BHEC).

We appreciate the legislative leadership and thoughtful emphasis on strengthening the mental health infrastructure in Texas and applaud the many hours of implementation work in connection with establishing a well-functioning and responsive BHEC. BHEC is an innovative strategy to create operational efficiencies while maintaining the integrity of the respective member boards' appropriate regulatory authority over what makes each mental health professional licenses unique. The regulatory authority delegated to BHEC is explicitly limited to establishing operational efficiencies and ensuring that any rule promulgated by a member board does not violate federal antitrust laws by limiting competition or impacting prices charged by persons engaged in a profession or business the executive council regulates. This ensures active state supervision while protecting the state's sovereign immunity.

Our associations appreciate the opportunity to participate both informally and formally in the process to adopt the rules that will govern BHEC's operating procedures and relationship with our respective licensing boards. Many of the proposed rules reflect the comments and recommendations delivered by us at your last meeting, but there are additional rules we would respectfully submit for your consideration, such as those allowing for emergency licenses, that reflect the current health crisis and should provide for a much swifter state response in the future.

We welcome your favorable consideration and encourage the agency to adopt the language recommendations listed below to ensure the rules as finally adopted are consistent with Chapter 507 of the Texas Occupations Code, as well as current and best practices.

Applications and Licensure

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

- (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: One of the key features contemplated by the Legislature in creating BHEC is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report

will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- ~~(a)~~(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- ~~(b)~~(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- ~~(e)~~(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- ~~(d)~~(f) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and

- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~
- (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- (fh) An individual practicing under an emergency temporary license must:
 - (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. The published language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested new language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12

Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. BHEC does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

General Provisions

SUBCHAPTER A – GENERAL PROVISIONS: Add a new §881.14 as follows:

§881.14 **Impartiality and Non-discrimination**

- (a) The BHEC board members will make decisions in the discharge of its statutory authority without regard to a person's age, race, religion, ethnicity, sex, gender, affectional orientation, disability, national origin, or genetic information.
- (b) Any BHEC board member who is unable to be impartial in the determination of disciplinary action against a licensee or who is determined to have a conflict of interest as set forth in §881.5 will declare this to the board and will not participate in any board proceedings involving that licensee.
- (c) A person needing accommodations under the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) in order to access BHEC board services must request reasonable accommodations in writing and may be required to provide verification of the person's disability and recommendations for appropriate accommodations from a medical, mental health, rehabilitation, or educational professional or specialist qualified to make such recommendations.

Rationale: Each of the member boards housed at BHEC have similar language currently in their rules. It appears that due to the role BHEC has in issuing licenses and administering the complaint process, those specific rules are being removed as the individual member boards propose rules changes to align with HB 1501 and the creation of BHEC. These protections, however, should be maintained by BHEC. We anticipate that the omission of this important language is an oversight since these rules were developed prior to the rule reviews undertaken by the individual member boards.

SUBCHAPTER B – RULEMAKING

§881.20 **Rulemaking by Executive Council**

- (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the

Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) Member boards must submit a new draft rule or rule change to the Council for consideration by submitting a draft of the rule with any deletions crossed through and additions underlined. The draft must also contain each of the notice components required in a preamble (e.g. §2001.024 of the Government Code) when proposing a new rule or rule change to the Council, member boards must also submit any information or comments received from the public in connection with the proposed rule. The Council shall limit its review of proposed rules to questions regarding anticompetitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by BHEC only for anti-competitive impacts, administrative consistency and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. The words “must also” implies that the authority of BHEC to review member board rules is broader than statutorily allowed. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

CONTACTS

Will Francis, Executive Director

National Association of Social Workers – Texas Chapter

(512) 474-1454

wfrancis.naswtx@socialworkers.org

Tris Castaneda

Texas Association for Marriage and Family Therapy

(512) 320-9933

tcastaneda@longbow-partners.com

Jan Friese, Executive Director

Texas Counseling Association

(512) 472-3403

Jan@txca.org

Jessica Magee, Executive Director

Texas Psychological Association

(512) 528-8400

jessica@texaspsyc.org

Mark Hanna

Texas Society for Clinical Social Work

(512) 477-6200

mhanna@markjhanna.com



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jodie Elder <jodie_elder@hotmail.com>

Fri, May 22, 2020 at 11:59 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To the Behavioral Health Executive Council:

I respectfully submit the attached public comment on the proposed rules published in the April 24, 2020 issue of the Texas Register.

Sincerely,

Jodie Elder

Jodie Elder, PhD, LPC-S, LMFT

Public Policy Committee Co-Chair, Texas Counseling Association

TCA Liaison to the Texas State Board of Examiners of Marriage and Family Therapists

**Comments on BHEC Proposed Rules_04.24.20.docx**

18K

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:58 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]

**Comments on BHEC Proposed Rules_04.24.20.docx**

18K

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.6 Limitations on Number of Examination Attempts

~~(a) An applicant may take an examination administered or required by the Council no more than three times. Failure to pass an examination subject to this rule within three attempts, will result in an automatic denial of an application. The number of examination attempts allowed for applicants will be determined by the member board authorized to set those requirements.~~

Rationale: The examination required for each specific licensure are created using independent norming groups and have varied difficulty levels and expected pass rates. Consequently, each independent licensing board should retain the right to set rules regarding the number of times

licensees are allowed to sit for the exams before they are denied application and therefore entrance into the field.

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)~~(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(f)~~(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Mikayla Knight <mikaylamarz02@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 10:34 AM

To whom it may concern,

Good morning. My name is Mikayla Knight and I am a **licensed social worker**. I am a Social Services Director at a Nursing and Rehabilitation facility in College Station, serving our community's vulnerable older adults, ensuring they rehab successfully and have a good quality of life as they live in our facility.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*
3. Licensing Times: As already mentioned, social workers experience extreme backlog on the licensing application and renewal process. This delay in timeliness results in loss of income, loss of opportunity, and also loss in motivation to pursue social work employment. *We also ask that BHEC address timeliness issues when granting new licenses and renewals, as this directly hurts our vulnerable populations who need social workers.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Mikayla Knight, (she/her/hers), LMSW
Master of Social Work- Texas State University 2019

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 10:39 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

882.22 Reinstatement of a License

Jefferson Thomas



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §882.22 Reinstatement of a License

2 messages

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Mon, May 11, 2020 at 4:11 PM

For consistency with Texas Occupations Code Sec. 502.252(b)(7), which disqualifies an applicant who has "had a license or certification revoked by a licensing agency or by a certifying professional organization," please consider changes to §882.22 Reinstatement of a License as indicated below:

§882.22 Reinstatement of a License

(a) A person whose license has expired or been retired, ~~revoked~~, or resigned, may apply for reinstatement of the license. A person seeking re-licensure must apply for reinstatement, rather than applying for a new license.

(1) A person whose license was issued under Texas Occupations Code Chapters 501, 503, or 505 and subsequently revoked, may apply for reinstatement of the license.

(2) A person who has had a license or certification revoked by a licensing agency is disqualified from applying for reinstatement or licensure under Texas Occupations Code, Chapter 502.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 12, 2020 at 9:02 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

882.26 Authorized Practice of Psychology Without a License

Rodney Smith



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Mon, May 18, 2020 at 8:50 PM

Rodney Smith <rodney_e_smith@hotmail.com>
 To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>
 Cc: "rodney_e_smith@outlook.com" <rodney_e_smith@outlook.com>

§881.13. Conduct and Decorum. (Would strike all three provisions)

- (a) ~~Persons having business with or interacting with the Council, member boards, or agency staff shall conduct themselves with proper dignity, courtesy, and respect. Disorderly or disruptive conduct will not be tolerated. (This does not define "dignity, courtesy, and respect. All of which, can vary by cultural orientation. This is too vague)~~
- (b) ~~The presiding officers for the Council and member boards may, in their own discretion, exclude from a meeting or proceeding, a person who, with intent to prevent or disrupt an agency meeting or proceeding, obstructs or interferes with the meeting or proceeding by physical action or verbal utterance. A person excluded under this rule may be excluded for the remainder of the meeting or proceeding or for a shorter period of time as is deemed just and reasonable by the presiding officer. (This restricts a citizen's right to participate based on undefined terms)~~
- (c) ~~Conduct or language directed at agency officials or staff by applicants or licensees that a reasonable person would find abusive or threatening is considered unprofessional conduct and may serve as grounds for a Council-initiated complaint and disciplinary action. (Too much discretion to act based on an undefined criteria)~~

§882.26. Authorized Practice of Psychology Without a License.

- (a) Notwithstanding Rule §882.23 of the chapter, the activities or services described in §501.004 of the Psychologists' Licensing Act are exempt from the Council's jurisdiction and do not require a license.
- (b) The activity or service of a post-doctoral fellow or resident in psychology is exempt from the Council's jurisdiction pursuant to §501.004(a)(2) of the Psychologists' Licensing Act if all of the following criteria are met:
- (1) The person is enrolled in a formal post-doctoral program that is:
 - (A) accredited by the American Psychological Association (APA) or is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or
 - (B) substantially equivalent to a program described in subparagraph (A) of this paragraph;
 - (2) The activities or services take place under qualified supervision and are part of the formal post-doctoral program; and
 - (3) The person is designated as a psychological intern or trainee, or by another title that clearly indicates the person's training status.
- (c) A formal post-doctoral program which meets the following criteria will be considered substantially equivalent to an APA accredited or APPIC member program:

(1) An organized experience with a planned and programmed sequence of supervised training experiences.

(2) A designated psychologist responsible for the program who possesses expertise or competence in the program's area.

(3) ~~Two or more~~ At least one licensed psychologists on staff, at least one designated as supervisor with expertise in area of practice. A designated supervisor may be the only psychologist on staff. (Having at least two psychologists on staff guarantees no greater learning than one. Improves access to healthcare for citizens if an internship can occur in a program that only has one supervisor on staff and that person may supervise post-doctoral training through creating opportunity for more internships. It does not eliminate the need for the training program to be formal. As originally written, this limits opportunities for post-doctoral training)

(4) A minimum of 2 hours per week of face-to-face supervision. (effective supervision can occur through the use of technology assisted interactions)

The increased costs are of concern: The council is raising the cost across all licensees to cover costs generated specifically by the Psychology Board. The Psychology specific expenses should stay contained within those licensees.

This proposed rule will increase application fees for the following license types: Licensed Baccalaureate Social Worker (LBSW) and Licensed Master Social Worker (LMSW) applications will increase by \$29; Licensed Clinical Social Worker (LCSW) applications will increase by \$29; Social Worker supervisor status applications will increase by \$30; initial Licensed Marriage and Family Therapist (LMFT) associate applications will increase by \$29; LMFT by endorsement applications will increase by \$31; LMFT supervisor status applications will increase by \$30; Licensed Professional Counselor (LPC), LPC intern, and provisional license applications will increase by \$31; and LPC supervisor status applications will decrease by \$50. This proposed rule will increase renewal fees for the following license types: LBSW and LMSW renewal applications will increase by \$61; LMSW advanced practitioner and LCSW renewal applications will increase by \$63; LMFT and LMFT associate renewal applications will increase by \$11; LPC renewal applications will increase by \$41; LPC supervisor status renewal applications will decrease by \$50; and Licensed Specialist in School Psychology renewal applications will increase by \$21. This proposed rule will create a new fee for the renewal of supervisor status for social workers which will be \$50.

882.30 Display of License

Aaron Robb, Ph.D., LPC-S



Brenda Skiff <brenda@tsbep.state.tx.us>

Rules comments

2 messages

Aaron Robb <aaron@texascounseling.org>
To: open.records@tsbep.texas.gov

Fri, May 22, 2020 at 8:54 PM

Please see attached

--
Aaron Robb, Ph.D., LPC-S
Forensic Counseling Services
<http://www.texascounseling.org>
Mailing Address: 2831 Eldorado Pkwy., Ste. 103-377, Frisco, TX 75033
Phone: 972-360-7437; Fax: 940-343-2601

"You can't go back and make a new start, but you can start right now and make a brand new ending." James Sherman
(commonly mis-attributed to C. S. Lewis)

This e-mail and any attachments contain information from the office of Aaron Robb, Ph.D., LPC-S, and are intended solely for the use of the named recipients. Any dissemination of this e-mail is strictly prohibited. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mails or attachments.

 **BHEC rules comments 2020-05-22.pdf**
96K

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:57 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

 **BHEC rules comments 2020-05-22.pdf**
96K

Aaron Robb, Ph.D., LPC-S
2831 Eldorado Parkway, Suite 103-377
Frisco, TX 75033

5/22/2020

open.records@tsbep.texas.gov

Dear Texas Behavioral Health Executive Council staff,

I am writing to provide feedback on the recently proposed rule. By way of background, I am a Licensed as a Professional Counselor, although in addition to my Master's in Counseling I also hold a Doctorate in Social Work. Having studied in multiple professional disciplines I appreciate the challenge that BHEC has in working with member boards of different backgrounds. After beginning my career with Child Protective Services I transitioned to working for Dallas County Family Court Services providing child custody evaluations and other services. Although I have transitioned from public service to private practice, over the last two decades I have focused on forensic mental health services. In that time I have published articles in academic and professional journals and amongst my academic work I serve on the Editorial Boards of the journal *Family Court Review* and the *Journal of Family Trauma, Child Custody & Child Development*. Locally, I have worked with the Family Law Foundation to help draft and pass various pieces of legislation that impact Texas families, including various revisions of Section 107, Subchapter D of the Texas Family Code regarding child custody and adoption evaluations. Thanks to more than a decade of work by the family law and mental health communities, Texas has some of the most rigorous laws in the nation regarding to professional practices and requirements for evaluations.

I appreciate this opportunity to share my thoughts and feedback on the recommended changes. I have outlined specific rules below for ease of review. I want to lead off by clearly noting that I support the passage of these rules, and my feedback is intended to build constructively from what has been proposed. It is critical to both licensees and the public that these initial rules be passed in a timely manner; hopefully my feedback is helpful as future iterations develop, refine, and improve regulations for behavioral health professionals in Texas.

From the Texas Register, April 24,2020 issue:

§882.1 "Application process" subsection (3) proposes standards regarding application timeframes that give concern for arbitrary differences drawn between member board types. There appears to be no explanation in the proposed rules as to why one of the licensee types is given only 90 days to complete applications, where the other licensee types have one year. It appears best that there be a single administrative standard regarding application timeframes provides equitable treatment of licensees from all member boards.

§882.30 “Display of License” subsection (b) proposes different standards regarding licensees of different member boards. This again causes concern regarding disparate treatment without any apparent explanation in the proposed rules as to why two of the licensee types may meet this requirement through an alternative method, but the licensees of the other two member boards cannot. As with the issue noted above, it again appears best if there was a single administrative standard applicable toward all licensees.

§882.32. “Duty to Update Name and Address” subsection (a) appears to require a licensee to be responsible for ensuring adequate record keeping for the licensing boards and Executive Council. It has been my experience that member boards seem to struggle to track submissions and process administrative paperwork in a timely fashion. To more clearly reflect the apparent intent of this rule it should be modified for the last sentence to read “It is the responsibility of the individual to provide agency the correct contact information for that individual.” A licensee can demonstrate they have provided information, they cannot make sure the agency does the right thing with it.

§882.36. “Compliance with State and Federal Law” seems to omit Family Code Chapters 104 and 107, both of which have provisions applicable to licensees of all member boards. While such forensic services are rarer, all licensees should be required to comply with all laws of the State of Texas. I fear without specifically naming these Family Code sections BHEC may run the risk that this goal will not be enforceable.

§882.50. “Continuing Education and Audits” subsection (b)(1) causes some significant concerns. An audit each month of 10% of all licensees will mean that, across the course of a year, essentially every licensee will be sampled (statistically many will be sampled more than once, with an outside chance some will not be sampled at all). This seems likely to create an unnecessary burden. It appears one option would be for BHEC to instead require annual submission of continuing education information if the goal is truly to audit at such a level. It may be this section was intended to establish a random audit, in any given year, of 10% of all licensees which seems like a far more reasonable process, and a simple edit is required.

§884.3. “Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations” is a section that has been needed for some time and I am pleased to see this included. The proposed changes should be adopted, and I am hopeful that future updates to rules can go further in addressing the complex adversarial nature of working with court-involved clients in areas other than evaluative work.. That said, it also appears some of these rules set an overly-high bar in some circumstances for clients who have been harmed by licensees.

In this difficult task BHEC should be commended for taking this first step to protect the public by insuring that competent forensic mental health professionals will be available when needed by court-involved clients. Too often complaints are used as “preemptive attacks” against professionals not because they have committed a licensing violation but because the litigating client is attempting to gain some sort of strategic advantage in court. The cost of such a scorched

earth approach to litigation (in time, effort, and expense) drives many competent professionals to avoid any type of interaction with court-connected clients. This has the knock-on result of creating a shortage of well-trained professionals willing to take on forensic work, forcing some clients to seek out subpar providers and the subpar work they perform. In order to ensure the public has access to quality providers willing to work with court-connected clients I am hopeful in the future BHEC will expand these rules to apply to all licensees working under court appointment.

That said, I am also hopeful in the future BHEC will look at expanding the options, particularly under Subsection (f), for client complaints to be heard as I fear what has been proposed currently may be overly restrictive. As someone who has served as an expert witness in scores of hearings, including many cases reviewing the work of court-appointed evaluators, in my experience it is very rare to see a court disqualify or strike an expert after having appointed them. Even when the expert has blatantly failed to meet not just the standard of care, but basic requirements set out in the Family Code and court appointment order, this impacts the weight the court gives to the expert rather than resulting in disqualification. When courts permit an expert to correct a defect by supplementing a report (a common cure when there is a deficiency found) or otherwise mitigating their errors, this does not remove the expert's failure to meet their ethical duty to have performed a competent job the first time around.

At a minimum I believe the language found in proposed 884.5(a) regarding a court finding of violation or other deficiency by the licensee should be incorporated as one of the possible criteria under Subsection (f). This, and other future additions, should maintain a focus on the appropriate primary location for litigants to address issues with experts – the court where their case is being heard – while providing better options to protect the public when there is a true error worthy of a licensing complaint.

✓ §884.12 “Complaint Disposition” is section I believe should be modified to require that BHEC shall solicit input from its member boards, rather than “may” do so. §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. From my understanding, BHEC was not developed to have any authority related to standard of care or ethical standards, and I believe therefore must be required to consult with the member boards regarding such issues.

I again appreciate all your hard work and effort on behalf of the citizens of Texas and those of us licensed to serve them. Even if my suggested revisions are not immediately possible, I encourage BHEC to pass the rules as drafted and implement updates in a subsequent iterations.

Sincerely,

A handwritten signature in black ink that reads "Aaron Robb". The signature is fluid and cursive, with the first name "Aaron" and last name "Robb" clearly distinguishable.

Aaron Robb, Ph.D., LPC-S

882.32 Duty to Update Name and Address

Aaron Robb, PhD., LPC-S



Brenda Skiff <brenda@tsbep.state.tx.us>

Rules comments

2 messages

Aaron Robb <aaron@texascounseling.org>

Fri, May 22, 2020 at 8:54 PM

To: open.records@tsbep.texas.gov

Please see attached

--

Aaron Robb, Ph.D., LPC-S

Forensic Counseling Services

<http://www.texascounseling.org>

Mailing Address: 2831 Eldorado Pkwy., Ste. 103-377, Frisco, TX 75033

Phone: 972-360-7437; Fax: 940-343-2601

"You can't go back and make a new start, but you can start right now and make a brand new ending." James Sherman
(commonly mis-attributed to C. S. Lewis)

This e-mail and any attachments contain information from the office of Aaron Robb, Ph.D., LPC-S, and are intended solely for the use of the named recipients. Any dissemination of this e-mail is strictly prohibited. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mails or attachments.

**BHEC rules comments 2020-05-22.pdf**

96K

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:57 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]

**BHEC rules comments 2020-05-22.pdf**

96K

Aaron Robb, Ph.D., LPC-S
2831 Eldorado Parkway, Suite 103-377
Frisco, TX 75033

5/22/2020

open.records@tsbep.texas.gov

Dear Texas Behavioral Health Executive Council staff,

I am writing to provide feedback on the recently proposed rule. By way of background, I am a Licensed as a Professional Counselor, although in addition to my Master's in Counseling I also hold a Doctorate in Social Work. Having studied in multiple professional disciplines I appreciate the challenge that BHEC has in working with member boards of different backgrounds. After beginning my career with Child Protective Services I transitioned to working for Dallas County Family Court Services providing child custody evaluations and other services. Although I have transitioned from public service to private practice, over the last two decades I have focused on forensic mental health services. In that time I have published articles in academic and professional journals and amongst my academic work I serve on the Editorial Boards of the journal *Family Court Review* and the *Journal of Family Trauma, Child Custody & Child Development*. Locally, I have worked with the Family Law Foundation to help draft and pass various pieces of legislation that impact Texas families, including various revisions of Section 107, Subchapter D of the Texas Family Code regarding child custody and adoption evaluations. Thanks to more than a decade of work by the family law and mental health communities, Texas has some of the most rigorous laws in the nation regarding to professional practices and requirements for evaluations.

I appreciate this opportunity to share my thoughts and feedback on the recommended changes. I have outlined specific rules below for ease of review. I want to lead off by clearly noting that I support the passage of these rules, and my feedback is intended to build constructively from what has been proposed. It is critical to both licensees and the public that these initial rules be passed in a timely manner; hopefully my feedback is helpful as future iterations develop, refine, and improve regulations for behavioral health professionals in Texas.

From the Texas Register, April 24,2020 issue:

§882.1 "Application process" subsection (3) proposes standards regarding application timeframes that give concern for arbitrary differences drawn between member board types. There appears to be no explanation in the proposed rules as to why one of the licensee types is given only 90 days to complete applications, where the other licensee types have one year. It appears best that there be a single administrative standard regarding application timeframes provides equitable treatment of licensees from all member boards.

§882.30 “Display of License” subsection (b) proposes different standards regarding licensees of different member boards. This again causes concern regarding disparate treatment without any apparent explanation in the proposed rules as to why two of the licensee types may meet this requirement through an alternative method, but the licensees of the other two member boards cannot. As with the issue noted above, it again appears best if there was a single administrative standard applicable toward all licensees.

§882.32. “Duty to Update Name and Address” subsection (a) appears to require a licensee to be responsible for ensuring adequate record keeping for the licensing boards and Executive Council. It has been my experience that member boards seem to struggle to track submissions and process administrative paperwork in a timely fashion. To more clearly reflect the apparent intent of this rule it should be modified for the last sentence to read “It is the responsibility of the individual to provide agency the correct contact information for that individual.” A licensee can demonstrate they have provided information, they cannot make sure the agency does the right thing with it.

§882.36. “Compliance with State and Federal Law” seems to omit Family Code Chapters 104 and 107, both of which have provisions applicable to licensees of all member boards. While such forensic services are rarer, all licensees should be required to comply with all laws of the State of Texas. I fear without specifically naming these Family Code sections BHEC may run the risk that this goal will not be enforceable.

§882.50. “Continuing Education and Audits” subsection (b)(1) causes some significant concerns. An audit each month of 10% of all licensees will mean that, across the course of a year, essentially every licensee will be sampled (statistically many will be sampled more than once, with an outside chance some will not be sampled at all). This seems likely to create an unnecessary burden. It appears one option would be for BHEC to instead require annual submission of continuing education information if the goal is truly to audit at such a level. It may be this section was intended to establish a random audit, in any given year, of 10% of all licensees which seems like a far more reasonable process, and a simple edit is required.

§884.3. “Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations” is a section that has been needed for some time and I am pleased to see this included. The proposed changes should be adopted, and I am hopeful that future updates to rules can go further in addressing the complex adversarial nature of working with court-involved clients in areas other than evaluative work.. That said, it also appears some of these rules set an overly-high bar in some circumstances for clients who have been harmed by licensees.

In this difficult task BHEC should be commended for taking this first step to protect the public by insuring that competent forensic mental health professionals will be available when needed by court-involved clients. Too often complaints are used as “preemptive attacks” against professionals not because they have committed a licensing violation but because the litigating client is attempting to gain some sort of strategic advantage in court. The cost of such a scorched

earth approach to litigation (in time, effort, and expense) drives many competent professionals to avoid any type of interaction with court-connected clients. This has the knock-on result of creating a shortage of well-trained professionals willing to take on forensic work, forcing some clients to seek out subpar providers and the subpar work they perform. In order to ensure the public has access to quality providers willing to work with court-connected clients I am hopeful in the future BHEC will expand these rules to apply to all licensees working under court appointment.

That said, I am also hopeful in the future BHEC will look at expanding the options, particularly under Subsection (f), for client complaints to be heard as I fear what has been proposed currently may be overly restrictive. As someone who has served as an expert witness in scores of hearings, including many cases reviewing the work of court-appointed evaluators, in my experience it is very rare to see a court disqualify or strike an expert after having appointed them. Even when the expert has blatantly failed to meet not just the standard of care, but basic requirements set out in the Family Code and court appointment order, this impacts the weight the court gives to the expert rather than resulting in disqualification. When courts permit an expert to correct a defect by supplementing a report (a common cure when there is a deficiency found) or otherwise mitigating their errors, this does not remove the expert's failure to meet their ethical duty to have performed a competent job the first time around.

At a minimum I believe the language found in proposed 884.5(a) regarding a court finding of violation or other deficiency by the licensee should be incorporated as one of the possible criteria under Subsection (f). This, and other future additions, should maintain a focus on the appropriate primary location for litigants to address issues with experts – the court where their case is being heard – while providing better options to protect the public when there is a true error worthy of a licensing complaint.

✓ §884.12 “Complaint Disposition” is section I believe should be modified to require that BHEC shall solicit input from its member boards, rather than “may” do so. §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. From my understanding, BHEC was not developed to have any authority related to standard of care or ethical standards, and I believe therefore must be required to consult with the member boards regarding such issues.

I again appreciate all your hard work and effort on behalf of the citizens of Texas and those of us licensed to serve them. Even if my suggested revisions are not immediately possible, I encourage BHEC to pass the rules as drafted and implement updates in a subsequent iterations.

Sincerely,

A handwritten signature in black ink that reads "Aaron Robb". The signature is fluid and cursive, with the first name "Aaron" and last name "Robb" clearly distinguishable.

Aaron Robb, Ph.D., LPC-S

882.36 Compliance with State and Federal Law

Jefferson Thomas

Aaron Robb, Ph.D., LPC-S



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §882.36 Compliance with State and Federal Law

2 messages

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Mon, May 11, 2020 at 4:22 PM

Please consider grammatical change to §882.36 Compliance with State and Federal Law

§882.36 Compliance with State and Federal Law

Licensees must comply with all applicable state and federal laws affecting the practice of marriage and family therapy, professional counseling, psychology, or social work including, but not limited to:

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 12, 2020 at 9:04 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Rules comments

2 messages

Aaron Robb <aaron@texascounseling.org>
To: open.records@tsbep.texas.gov

Fri, May 22, 2020 at 8:54 PM

Please see attached

--

Aaron Robb, Ph.D., LPC-S
Forensic Counseling Services
<http://www.texascounseling.org>
Mailing Address: 2831 Eldorado Pkwy., Ste. 103-377, Frisco, TX 75033
Phone: 972-360-7437; Fax: 940-343-2601

"You can't go back and make a new start, but you can start right now and make a brand new ending." James Sherman
(commonly mis-attributed to C. S. Lewis)

This e-mail and any attachments contain information from the office of Aaron Robb, Ph.D., LPC-S, and are intended solely for the use of the named recipients. Any dissemination of this e-mail is strictly prohibited. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mails or attachments.

 **BHEC rules comments 2020-05-22.pdf**
96K

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:57 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

 **BHEC rules comments 2020-05-22.pdf**
96K

Aaron Robb, Ph.D., LPC-S
2831 Eldorado Parkway, Suite 103-377
Frisco, TX 75033

5/22/2020

open.records@tsbep.texas.gov

Dear Texas Behavioral Health Executive Council staff,

I am writing to provide feedback on the recently proposed rule. By way of background, I am a Licensed as a Professional Counselor, although in addition to my Master's in Counseling I also hold a Doctorate in Social Work. Having studied in multiple professional disciplines I appreciate the challenge that BHEC has in working with member boards of different backgrounds. After beginning my career with Child Protective Services I transitioned to working for Dallas County Family Court Services providing child custody evaluations and other services. Although I have transitioned from public service to private practice, over the last two decades I have focused on forensic mental health services. In that time I have published articles in academic and professional journals and amongst my academic work I serve on the Editorial Boards of the journal *Family Court Review* and the *Journal of Family Trauma, Child Custody & Child Development*. Locally, I have worked with the Family Law Foundation to help draft and pass various pieces of legislation that impact Texas families, including various revisions of Section 107, Subchapter D of the Texas Family Code regarding child custody and adoption evaluations. Thanks to more than a decade of work by the family law and mental health communities, Texas has some of the most rigorous laws in the nation regarding to professional practices and requirements for evaluations.

I appreciate this opportunity to share my thoughts and feedback on the recommended changes. I have outlined specific rules below for ease of review. I want to lead off by clearly noting that I support the passage of these rules, and my feedback is intended to build constructively from what has been proposed. It is critical to both licensees and the public that these initial rules be passed in a timely manner; hopefully my feedback is helpful as future iterations develop, refine, and improve regulations for behavioral health professionals in Texas.

From the Texas Register, April 24,2020 issue:

§882.1 "Application process" subsection (3) proposes standards regarding application timeframes that give concern for arbitrary differences drawn between member board types. There appears to be no explanation in the proposed rules as to why one of the licensee types is given only 90 days to complete applications, where the other licensee types have one year. It appears best that there be a single administrative standard regarding application timeframes provides equitable treatment of licensees from all member boards.

§882.30 “Display of License” subsection (b) proposes different standards regarding licensees of different member boards. This again causes concern regarding disparate treatment without any apparent explanation in the proposed rules as to why two of the licensee types may meet this requirement through an alternative method, but the licensees of the other two member boards cannot. As with the issue noted above, it again appears best if there was a single administrative standard applicable toward all licensees.

§882.32. “Duty to Update Name and Address” subsection (a) appears to require a licensee to be responsible for ensuring adequate record keeping for the licensing boards and Executive Council. It has been my experience that member boards seem to struggle to track submissions and process administrative paperwork in a timely fashion. To more clearly reflect the apparent intent of this rule it should be modified for the last sentence to read “It is the responsibility of the individual to provide agency the correct contact information for that individual.” A licensee can demonstrate they have provided information, they cannot make sure the agency does the right thing with it.

§882.36. “Compliance with State and Federal Law” seems to omit Family Code Chapters 104 and 107, both of which have provisions applicable to licensees of all member boards. While such forensic services are rarer, all licensees should be required to comply with all laws of the State of Texas. I fear without specifically naming these Family Code sections BHEC may run the risk that this goal will not be enforceable.

§882.50. “Continuing Education and Audits” subsection (b)(1) causes some significant concerns. An audit each month of 10% of all licensees will mean that, across the course of a year, essentially every licensee will be sampled (statistically many will be sampled more than once, with an outside chance some will not be sampled at all). This seems likely to create an unnecessary burden. It appears one option would be for BHEC to instead require annual submission of continuing education information if the goal is truly to audit at such a level. It may be this section was intended to establish a random audit, in any given year, of 10% of all licensees which seems like a far more reasonable process, and a simple edit is required.

§884.3. “Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations” is a section that has been needed for some time and I am pleased to see this included. The proposed changes should be adopted, and I am hopeful that future updates to rules can go further in addressing the complex adversarial nature of working with court-involved clients in areas other than evaluative work.. That said, it also appears some of these rules set an overly-high bar in some circumstances for clients who have been harmed by licensees.

In this difficult task BHEC should be commended for taking this first step to protect the public by insuring that competent forensic mental health professionals will be available when needed by court-involved clients. Too often complaints are used as “preemptive attacks” against professionals not because they have committed a licensing violation but because the litigating client is attempting to gain some sort of strategic advantage in court. The cost of such a scorched

earth approach to litigation (in time, effort, and expense) drives many competent professionals to avoid any type of interaction with court-connected clients. This has the knock-on result of creating a shortage of well-trained professionals willing to take on forensic work, forcing some clients to seek out subpar providers and the subpar work they perform. In order to ensure the public has access to quality providers willing to work with court-connected clients I am hopeful in the future BHEC will expand these rules to apply to all licensees working under court appointment.

That said, I am also hopeful in the future BHEC will look at expanding the options, particularly under Subsection (f), for client complaints to be heard as I fear what has been proposed currently may be overly restrictive. As someone who has served as an expert witness in scores of hearings, including many cases reviewing the work of court-appointed evaluators, in my experience it is very rare to see a court disqualify or strike an expert after having appointed them. Even when the expert has blatantly failed to meet not just the standard of care, but basic requirements set out in the Family Code and court appointment order, this impacts the weight the court gives to the expert rather than resulting in disqualification. When courts permit an expert to correct a defect by supplementing a report (a common cure when there is a deficiency found) or otherwise mitigating their errors, this does not remove the expert's failure to meet their ethical duty to have performed a competent job the first time around.

At a minimum I believe the language found in proposed 884.5(a) regarding a court finding of violation or other deficiency by the licensee should be incorporated as one of the possible criteria under Subsection (f). This, and other future additions, should maintain a focus on the appropriate primary location for litigants to address issues with experts – the court where their case is being heard – while providing better options to protect the public when there is a true error worthy of a licensing complaint.

✓ §884.12 “Complaint Disposition” is section I believe should be modified to require that BHEC shall solicit input from its member boards, rather than “may” do so. §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. From my understanding, BHEC was not developed to have any authority related to standard of care or ethical standards, and I believe therefore must be required to consult with the member boards regarding such issues.

I again appreciate all your hard work and effort on behalf of the citizens of Texas and those of us licensed to serve them. Even if my suggested revisions are not immediately possible, I encourage BHEC to pass the rules as drafted and implement updates in a subsequent iterations.

Sincerely,

A handwritten signature in black ink that reads "Aaron Robb". The signature is fluid and cursive, with the first name "Aaron" and last name "Robb" clearly distinguishable.

Aaron Robb, Ph.D., LPC-S

882.40 Criminal History Background Checks

Jefferson Thomas



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §882.40 Criminal History Background Checks1 message

Jefferson Thomas <jeffthom1776@gmail.com>

Mon, May 11, 2020 at 12:59 PM

To: Open.Records@tsbep.texas.gov

For clarity, please consider changes to §882.40 Criminal History Background Checks as indicated below. As published, (d) appears to contradict (b). As published, it seems that (c) allows a licensee to complete renewal solely on receipt of DPS and FBI reports and is not required to complete other renewal requirements.

§882.40 Criminal History Background Checks

(a) Before the Council will issue a license, an applicant must undergo a fingerprint-based criminal history record check.

(b) The Council may require a licensee to obtain an updated fingerprint-based criminal history record check at any time.

(c) A licensee who was not required to undergo a fingerprint based criminal history record check as a condition of licensure, must undergo a fingerprint based criminal history check if directed by the Council as a condition for renewal of a license. A licensee must ~~may~~ fulfill all other renewal requirements; in additions ~~but~~ a report must be received by the Council from the Texas Department of Public Safety and the Federal Bureau of Investigation before a license will be renewed.

~~(d) Applicants and licensees who hold a license issued by the Council or one of its member boards and who underwent a fingerprint-based criminal history record check as part of the licensing process for that license, do not need to undergo another check.~~

882.41 Criminal History Evaluations

Jefferson Thomas



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §882.41 Criminal History Evaluations1 message

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Mon, May 11, 2020 at 1:09 PM

For consistency with previous section(s), please consider the change to §882.41 Criminal History Evaluations as indicated below:

§882.41 Criminal History Evaluations

(d) Requestors must obtain a fingerprint-based criminal history record check after they have submitted an application for a criminal history evaluation letter.

882.50 Continuing Education and Audits

Jefferson Thomas
Helen Harris, Ed.D., LCSW

Aaron Robb, Ph.D., LPC-S



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment to Proposed Rules §882.50 Continuing Education and Audits1 message

Jefferson Thomas <jeffthom1776@gmail.com>

Mon, May 11, 2020 at 10:53 AM

To: Open.Records@tsbep.texas.gov

For clarity, please consider changes to §882.50 Continuing Education and Audits as indicated below:

§882.50 Continuing Education and Audits

(a) Unless the Council has approved inactive status for a licensee as described in §882.21, all All persons issued a license by the Council are obligated to continue their professional education by completing a minimum amount of continuing education during each renewal period that they hold a license from this agency. The specific continuing education requirements for a license holder will be determined by the member board authorized to set those requirements.



Brenda Skiff <brenda@tsbep.state.tx.us>

Rules comments

2 messages

Aaron Robb <aaron@texascounseling.org>
To: open.records@tsbep.texas.gov

Fri, May 22, 2020 at 8:54 PM

Please see attached

--

Aaron Robb, Ph.D., LPC-S
Forensic Counseling Services
<http://www.texascounseling.org>
Mailing Address: 2831 Eldorado Pkwy., Ste. 103-377, Frisco, TX 75033
Phone: 972-360-7437; Fax: 940-343-2601

"You can't go back and make a new start, but you can start right now and make a brand new ending." James Sherman
(commonly mis-attributed to C. S. Lewis)

This e-mail and any attachments contain information from the office of Aaron Robb, Ph.D., LPC-S, and are intended solely for the use of the named recipients. Any dissemination of this e-mail is strictly prohibited. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mails or attachments.

 **BHEC rules comments 2020-05-22.pdf**
96K

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:57 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

 **BHEC rules comments 2020-05-22.pdf**
96K

Aaron Robb, Ph.D., LPC-S
2831 Eldorado Parkway, Suite 103-377
Frisco, TX 75033

5/22/2020

open.records@tsbep.texas.gov

Dear Texas Behavioral Health Executive Council staff,

I am writing to provide feedback on the recently proposed rule. By way of background, I am a Licensed as a Professional Counselor, although in addition to my Master's in Counseling I also hold a Doctorate in Social Work. Having studied in multiple professional disciplines I appreciate the challenge that BHEC has in working with member boards of different backgrounds. After beginning my career with Child Protective Services I transitioned to working for Dallas County Family Court Services providing child custody evaluations and other services. Although I have transitioned from public service to private practice, over the last two decades I have focused on forensic mental health services. In that time I have published articles in academic and professional journals and amongst my academic work I serve on the Editorial Boards of the journal *Family Court Review* and the *Journal of Family Trauma, Child Custody & Child Development*. Locally, I have worked with the Family Law Foundation to help draft and pass various pieces of legislation that impact Texas families, including various revisions of Section 107, Subchapter D of the Texas Family Code regarding child custody and adoption evaluations. Thanks to more than a decade of work by the family law and mental health communities, Texas has some of the most rigorous laws in the nation regarding to professional practices and requirements for evaluations.

I appreciate this opportunity to share my thoughts and feedback on the recommended changes. I have outlined specific rules below for ease of review. I want to lead off by clearly noting that I support the passage of these rules, and my feedback is intended to build constructively from what has been proposed. It is critical to both licensees and the public that these initial rules be passed in a timely manner; hopefully my feedback is helpful as future iterations develop, refine, and improve regulations for behavioral health professionals in Texas.

From the Texas Register, April 24,2020 issue:

§882.1 "Application process" subsection (3) proposes standards regarding application timeframes that give concern for arbitrary differences drawn between member board types. There appears to be no explanation in the proposed rules as to why one of the licensee types is given only 90 days to complete applications, where the other licensee types have one year. It appears best that there be a single administrative standard regarding application timeframes provides equitable treatment of licensees from all member boards.

§882.30 “Display of License” subsection (b) proposes different standards regarding licensees of different member boards. This again causes concern regarding disparate treatment without any apparent explanation in the proposed rules as to why two of the licensee types may meet this requirement through an alternative method, but the licensees of the other two member boards cannot. As with the issue noted above, it again appears best if there was a single administrative standard applicable toward all licensees.

§882.32. “Duty to Update Name and Address” subsection (a) appears to require a licensee to be responsible for ensuring adequate record keeping for the licensing boards and Executive Council. It has been my experience that member boards seem to struggle to track submissions and process administrative paperwork in a timely fashion. To more clearly reflect the apparent intent of this rule it should be modified for the last sentence to read “It is the responsibility of the individual to provide agency the correct contact information for that individual.” A licensee can demonstrate they have provided information, they cannot make sure the agency does the right thing with it.

§882.36. “Compliance with State and Federal Law” seems to omit Family Code Chapters 104 and 107, both of which have provisions applicable to licensees of all member boards. While such forensic services are rarer, all licensees should be required to comply with all laws of the State of Texas. I fear without specifically naming these Family Code sections BHEC may run the risk that this goal will not be enforceable.

§882.50. “Continuing Education and Audits” subsection (b)(1) causes some significant concerns. An audit each month of 10% of all licensees will mean that, across the course of a year, essentially every licensee will be sampled (statistically many will be sampled more than once, with an outside chance some will not be sampled at all). This seems likely to create an unnecessary burden. It appears one option would be for BHEC to instead require annual submission of continuing education information if the goal is truly to audit at such a level. It may be this section was intended to establish a random audit, in any given year, of 10% of all licensees which seems like a far more reasonable process, and a simple edit is required.

§884.3. “Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations” is a section that has been needed for some time and I am pleased to see this included. The proposed changes should be adopted, and I am hopeful that future updates to rules can go further in addressing the complex adversarial nature of working with court-involved clients in areas other than evaluative work.. That said, it also appears some of these rules set an overly-high bar in some circumstances for clients who have been harmed by licensees.

In this difficult task BHEC should be commended for taking this first step to protect the public by insuring that competent forensic mental health professionals will be available when needed by court-involved clients. Too often complaints are used as “preemptive attacks” against professionals not because they have committed a licensing violation but because the litigating client is attempting to gain some sort of strategic advantage in court. The cost of such a scorched

earth approach to litigation (in time, effort, and expense) drives many competent professionals to avoid any type of interaction with court-connected clients. This has the knock-on result of creating a shortage of well-trained professionals willing to take on forensic work, forcing some clients to seek out subpar providers and the subpar work they perform. In order to ensure the public has access to quality providers willing to work with court-connected clients I am hopeful in the future BHEC will expand these rules to apply to all licensees working under court appointment.

That said, I am also hopeful in the future BHEC will look at expanding the options, particularly under Subsection (f), for client complaints to be heard as I fear what has been proposed currently may be overly restrictive. As someone who has served as an expert witness in scores of hearings, including many cases reviewing the work of court-appointed evaluators, in my experience it is very rare to see a court disqualify or strike an expert after having appointed them. Even when the expert has blatantly failed to meet not just the standard of care, but basic requirements set out in the Family Code and court appointment order, this impacts the weight the court gives to the expert rather than resulting in disqualification. When courts permit an expert to correct a defect by supplementing a report (a common cure when there is a deficiency found) or otherwise mitigating their errors, this does not remove the expert's failure to meet their ethical duty to have performed a competent job the first time around.

At a minimum I believe the language found in proposed 884.5(a) regarding a court finding of violation or other deficiency by the licensee should be incorporated as one of the possible criteria under Subsection (f). This, and other future additions, should maintain a focus on the appropriate primary location for litigants to address issues with experts – the court where their case is being heard – while providing better options to protect the public when there is a true error worthy of a licensing complaint.

✓ §884.12 “Complaint Disposition” is section I believe should be modified to require that BHEC shall solicit input from its member boards, rather than “may” do so. §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. From my understanding, BHEC was not developed to have any authority related to standard of care or ethical standards, and I believe therefore must be required to consult with the member boards regarding such issues.

I again appreciate all your hard work and effort on behalf of the citizens of Texas and those of us licensed to serve them. Even if my suggested revisions are not immediately possible, I encourage BHEC to pass the rules as drafted and implement updates in a subsequent iterations.

Sincerely,

A handwritten signature in black ink that reads "Aaron Robb". The signature is fluid and cursive, with the first name "Aaron" and last name "Robb" clearly distinguishable.

Aaron Robb, Ph.D., LPC-S



Brenda Skiff <brenda@tsbep.state.tx.us>

Comment on Proposed Rules

2 messages

Harris, Helen <Helen_Harris@baylor.edu>

Sat, May 23, 2020 at 2:22 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Helen Harris and I am a licensed social worker, LCSW-S, #9514. I am a social work educator at the Garland School of Social Work/Baylor University.

Thank you for the opportunity to respond with comments specific to the Behavioral health Executive Council (BHEC) draft rules. This board and these rules are important to the effective and efficient provision of a social work workforce in Texas.

I have reviewed the draft carefully and have several comments/questions and recommendations and appreciate your willingness to consider these.

1. In times of disaster like we currently experience with COVID-19, is important that licensed social workers from other states be able to quickly receive emergency license to practice.
2. Here are my comments on specific parts of the proposed law with page number and section.
 - Does the rotational nature of board member selection mean that there will be years without a social worker on the board?
 - If the council/board decides on the qualifications for the Executive Director, might that impact the discipline(s) that are elevated or ignored for Executive Director qualifications?
 - 881 Sick leave pool....why are more procedures needed than in the Government Code and Employees Retirement System of Texas etc. p. 15
 - 882.2. Requires a transcript from the accredited institution....directly from the institution.
Current students can take the exam in their last semester of work. Does this eliminate that? P. 21
 - p. 21 #5...SAVE...is this about making sure immigrants aren't getting any entitlements? Why would this be important if they have been students and may have needed help?
 - Currently application for licensure is the ticket to taking the exam. This says you need exam results prior to applying for licensure. How does that work with ASWB? P. 21
 - p. 23. 882.6. Previous licensure rules included provision for the rare student who is unable to pass the exam after three tries because of disabilities related to testing but who meets all other requirements and demonstrates promise as a practitioner. The provision was application to practice for several years under the close supervision of

a licensed practitioner who oversees the practice and at the end of the provisional time makes a recommendation regarding the candidate's licensure. In my 40 years of practice I have only worked with one graduate/practitioner who needed this provision but was able to practice successfully under supervision and then with her own license having successfully met the supervised practice requirement. I recommend the council consider this option for the new law.

- p. 43. 882.50-1. Random audits. Each month 10% of the licensees will be selected by an automated process....I assume this means 10% of those due for renewal for that month but this is not clear and suggests that 10% of all licensees would be selected each month indicating that 120% would be audited each year....a burdensome and expensive process.

- p. 46: 882.61 Special Licensing Provisions for Military Spouses. Thank you. Excellent change.

- p. 49. 882.70. Emergency Temporary License

The delay in licensing has been substantial in past years and an emergency temporary license has been available to those waiting for the state to process applications...particularly for those who need a license to secure or retain a job and whose licenses are held up through no fault of their own. I recommend that option for six month emergency temporary license be included.

Thank you again for the opportunity to respond.

Helen Harris

Helen Harris, Ed.D., LCSW

Associate Professor

Diana R. Garland School of Social Work

Baylor University

One Bear Place #97320

Waco, Texas 76798

(254) 710-4431

Helen_Harris@baylor.edu

She/her/hers

"Education is not the filling of a pail, but the lighting of a fire." – WB Yeats

"Our ability to reach unity in diversity will be the beauty and the test of our civilization" Ghandi

882.60 Special Provisions Applying to Military Services Members, Veterans, and Spouses

Jefferson Thomas



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §882.60 Special Provisions Applying to Military Service Members, Veterans, and Spouses

2 messages

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Mon, May 11, 2020 at 3:04 PM

For consistency, please consider change to §882.60 Special Provisions Applying to Military Service Members, Veterans, and Spouses as indicated below:

§882.60 Special Provisions Applying to Military Service Members, Veterans, and Spouses

(e) As part of the application process, the Executive Director may waive any prerequisite for obtaining a license, other than the requirements in subsection (b) of this section, the jurisprudence examination, and the fingerprint-based criminal history background check, if it is determined that the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought. When making this determination, the Executive Director must consult with the relevant member board or its designated application or licensing committee and consider the board's or committee's input and recommendations. In the event the Executive Director does not follow a recommendation of the board or committee, the Executive Director must submit a written explanation to the board or committee explaining why its recommendation was not followed. No waiver may be granted where a military service member or military veteran holds a license issued by another jurisdiction that has been restricted, or where the applicant has a disqualifying criminal history.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 12, 2020 at 9:01 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

882.61 Special Licensing Provisions for Military Spouses

Helen Harris, Ed.D., LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comment on Proposed Rules

2 messages

Harris, Helen <Helen_Harris@baylor.edu>

Sat, May 23, 2020 at 2:22 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Helen Harris and I am a licensed social worker, LCSW-S, #9514. I am a social work educator at the Garland School of Social Work/Baylor University.

Thank you for the opportunity to respond with comments specific to the Behavioral health Executive Council (BHEC) draft rules. This board and these rules are important to the effective and efficient provision of a social work workforce in Texas.

I have reviewed the draft carefully and have several comments/questions and recommendations and appreciate your willingness to consider these.

1. In times of disaster like we currently experience with COVID-19, is important that licensed social workers from other states be able to quickly receive emergency license to practice.
2. Here are my comments on specific parts of the proposed law with page number and section.
 - Does the rotational nature of board member selection mean that there will be years without a social worker on the board?
 - If the council/board decides on the qualifications for the Executive Director, might that impact the discipline(s) that are elevated or ignored for Executive Director qualifications?
 - 881 Sick leave pool....why are more procedures needed than in the Government Code and Employees Retirement System of Texas etc. p. 15
 - 882.2. Requires a transcript from the accredited institution....directly from the institution.
Current students can take the exam in their last semester of work. Does this eliminate that? P. 21
 - p. 21 #5...SAVE...is this about making sure immigrants aren't getting any entitlements? Why would this be important if they have been students and may have needed help?
 - Currently application for licensure is the ticket to taking the exam. This says you need exam results prior to applying for licensure. How does that work with ASWB? P. 21
 - p. 23. 882.6. Previous licensure rules included provision for the rare student who is unable to pass the exam after three tries because of disabilities related to testing but who meets all other requirements and demonstrates promise as a practitioner. The provision was application to practice for several years under the close supervision of

a licensed practitioner who oversees the practice and at the end of the provisional time makes a recommendation regarding the candidate's licensure. In my 40 years of practice I have only worked with one graduate/practitioner who needed this provision but was able to practice successfully under supervision and then with her own license having successfully met the supervised practice requirement. I recommend the council consider this option for the new law.

- p. 43. 882.50-1. Random audits. Each month 10% of the licensees will be selected by an automated process....I assume this means 10% of those due for renewal for that month but this is not clear and suggests that 10% of all licensees would be selected each month indicating that 120% would be audited each year....a burdensome and expensive process.

- p. 46: 882.61 Special Licensing Provisions for Military Spouses. Thank you. Excellent change.

- p. 49. 882.70. Emergency Temporary License

The delay in licensing has been substantial in past years and an emergency temporary license has been available to those waiting for the state to process applications...particularly for those who need a license to secure or retain a job and whose licenses are held up through no fault of their own. I recommend that option for six month emergency temporary license be included.

Thank you again for the opportunity to respond.

Helen Harris

Helen Harris, Ed.D., LCSW

Associate Professor

Diana R. Garland School of Social Work

Baylor University

One Bear Place #97320

Waco, Texas 76798

(254) 710-4431

Helen_Harris@baylor.edu

She/her/hers

"Education is not the filling of a pail, but the lighting of a fire." – WB Yeats

"Our ability to reach unity in diversity will be the beauty and the test of our civilization" Ghandi

882.70 Emergency Temporary License

Katrina Daneshvar, MA
Kathleen Moore, LPC-S
Melissa Dilworth
Judy Jarratt, Ed.D., LPC

Jennifer Vasquez, LCSW
Kayla Sohns, LMSW
Domenica Domingue
Naomi Freifreich
Kristen Gonzalez
Michelle Zadrozny, LCSW-S
Laurie Stephens, LMSW-IPR
Tiffany Frias, LPC
Natalie Beck
Scott Bendle, M.Ed., LPC-S
Dallas Adams, LCSW-S
Diane M. Benefiel
Mikayla Knight

Leslie Billington
Charles Lavine, LPC
Emma Taylor, LCSW
Trey Johnson, LMSW
Linda Knewtson, LCSW
Angie Novak, LPC Intern
Ronald W. Prieto, LCSW
Catie Munguia
Claire Woll
Virginia D. Manuel, LMSW-AP
Marcus Wade
Donna Tomlinson, LCSW
Lynn Panepinto, LMSW
Monique Rodriguez, LMSW
Katerine Rosato, LMSW
Joseph Hartsoe
Jodie Elder, Ph.D., LPC-S, LMFT

Sarah Stillwell, LPC
Penni Patterson, LCSW
Melissa Sutherland, LPC-S
Janet Finch, Ph.D., LCSW
Jenifer McLuskie, LMSW
Rebecca Cole, LCSW
Ginger Chun
Jennifer Delaine Taylor, LCSW
Steven L. Parks, LCSW-S
Susan Harnen, LCSW
Raena Williams
Jennifer Canning
Gianna Viola, LCSW-S
Nancy Jo Long
Haley Williams
J.P. Kendrick
MaryAnn Kildebeck
Jillian Bissar, LCSW
Rose Mary Rodriguez
Elizabeth Hummert, LCSW
Charlotte B. Cooper, LCSW
Ann Marie Haney, LCSW
Cheryl Jones, LMSW
Shannon Huggins, LCSW-S
Anatasia Deeter, LCSW-S
Carol Ann Ross, LMSW
Rachel Slaymaker
Tara Ayala, LCSW
Anita Franz, LCSW
Monica McCarthy
Suzanne Francis, LCSW
Pat Gleason-Wynn, Ph.D., LCSW
Rolland Fellows, Ph.D.
Rebecca Lincoln, LPC-S
Jan Friese, TCA ED
Helen Harris, Ed.D., LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments/suggestions for proposed BHEC rules

2 messages

Katrina Daneshvar <kdaneshvar@harmonytx.org>

Fri, May 1, 2020 at 2:47 PM

To: open.records@tsbep.texas.gov

I would like the comments/suggestions listed in the attached document to be thoughtfully considered for the proposed BHEC rules.

Respectfully,

Katrina Daneshvar, MA, LPC, NCC | District Behavioral Counselor | Houston North
(281) 444-1555 | 3203 North Sam Houston Pkwy W. Houston, TX 77038

Join Our Team: Apply Today



Harmony Core Values: #CharacterMatters, #DedicatedStaff, #WorkingTogether, #HighExpectations, #STEMforAll

DISCLAIMER: This e-mail transmission, and any documents, files or previous e-mail messages attached to it, may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this message is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify this sender.

 Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 1, 2020 at 6:30 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

 Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (d)(f) To be eligible for an emergency temporary license, an applicant must:

 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on proposed rules

2 messages

Sarah Stillwell <sarahstillwell88@gmail.com>

Fri, May 1, 2020 at 2:43 PM

To: open.records@tsbep.texas.gov

Please see the attachment.

--

Thank You,

Sarah Stillwell, LPC

Pronouns: She/Her/Hers

Dallas Counseling and Treatment Center

Gender-Affirming Mental Health Services, Dallas Resource Center

TAMU-Commerce Doctoral Student

Senator, Texas Counselors for Social Justice

Emerging Leader, Texas Association of I.GBT Issues in Counseling

Welcoming
& Affirming

Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 1, 2020 at 6:30 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Kathleen Moore <kmoorelpcs@gmail.com>

Sun, May 3, 2020 at 12:42 PM

To: open.records@tsbep.texas.gov

Please consider these attached suggestions.

Thank you.

Kathleen Moore LPC-S

President of the Bluebonnet Counseling Association of Texas Counseling Association

 **Comments_BHEC Proposed Rules_04.24.20 (2) (3).pdf**
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Sun, May 3, 2020 at 4:34 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

 **Comments_BHEC Proposed Rules_04.24.20 (2) (3).pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Penni Patterson <pennipatterson@gmail.com>
To: open.records@tsbep.texas.gov

Mon, May 4, 2020 at 9:20 AM

Please implement the suggested changes to the rules on establishing BHEC.

Suggested Comments on BHEC Rules

• General Provisions

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

• Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

• Applications and Licensure

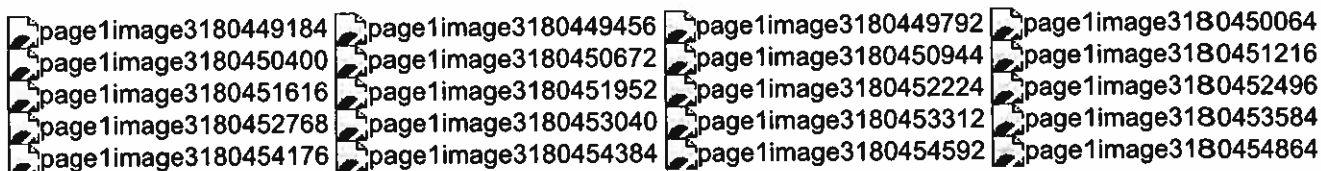
SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not

provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.



SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE §882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

- (1) the Governor declares a disaster under Government Code §418.014; and
- (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

- (1) the Governor declares a disaster under Government Code §418.014;
- (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
- (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
- (3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

- (1) submit an application in the form prescribed by the Council; and
- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.



page2image3159213040 page2image3159213312 page2image3159213584 page2image3159213856
page2image3159214128 page2image3159214400 page2image3159214672 page2image3159214944

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

page3image3160665024 page3image3160665232 page3image3160665440 page3image3160665712
page3image3160666048

• **Rationale:**

onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Thank you for the work you are doing during this time of emergency and always.

Sincerely,

Penni Patterson, LCSW

Penni Patterson, LCSW, MBA

This email and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to which they are addressed. This communication may contain material protected by HIPAA legislation (45 CFR, Parts 160 & 164). If you are not the intended recipient or the person responsible for delivering this email to the intended recipient, be advised that you have received this email in error and that any use, dissemination, forwarding, printing or copying of this email is strictly prohibited. If you have received this email in error, please notify the sender by replying to this email and then delete the email from your computer.

Brenda Skiff <brenda@tsbep.state.tx.us>
 To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 4, 2020 at 10:50 AM

Brenda Skiff
 Public Information Officer/
 Legal Assistant
 Texas State Board of Examiners of Psychologists
 333 Guadalupe, Ste 2-450
 Austin, TX 78701
 512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

comments on proposed rules 22TAC Chapter 881

2 messages

Melissa Dilworth <melissadarttherapist@gmail.com>

Mon, May 4, 2020 at 1:29 PM

To: open.records@tsbep.texas.gov

I support the following comments
Melissa Dilworth LPC-AT

Suggested Comments on BHEC Rules • General Provisions SUBCHAPTER B – RULEMAKING §881.20 Rulemaking by Executive Council (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may onlyalso review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns. (d) (pick up from notebook) Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent. • Complaints and Enforcement SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition. (c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule. Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays. • Applications and Licensure SUBCHAPTER A – LICENSE APPLICATIONS §882.9. Established Application Processing Time (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis. Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category. SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE §882.70. Emergency Temporary License. (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration. (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if: (1) the Governor declares a disaster under Government Code §418.014; and (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state. (c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if: (1) the Governor declares a disaster under Government Code §418.014; (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster; (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and (3) the applicant meets the requirements set forth herein below. (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first. (ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor. (df) To be eligible for an emergency temporary license, an applicant must: (1) submit an application in the form prescribed by the Council; and (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing. (e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration. (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date. (fh) An individual practicing under an emergency temporary license must: (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the

license number and instructions on how to verify the status of a license when initiating services with a patient or client; (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and (3) comply with all other applicable Council rules. (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license. • Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Melissa Dilworth <melissadarttherapist@gmail.com>
To: open.records@tsbep.texas.gov

Mon, May 4, 2020 at 1:30 PM

[Quoted text hidden]

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Melissa Sutherland <sutherlandlpc@gmail.com>

Mon, May 4, 2020 at 4:30 PM

To: open.records@tsbep.texas.gov

Dear BHEC Representative,

I am a Licensed Professional Counselor Supervisor and I appreciate all of the hard work that went into the proposed new rules published by BHEC on April 24, 2020. I understand comments and suggestions are being taken at this time. I would like to submit suggestions for the new rules. I have attached a copy of the rules that includes the suggestions I would like to have considered. Thank you for your time and consideration. I look forward to working with BHEC in the near future.

Respectfully,
Melissa L. Sutherland, LPC-S

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 4, 2020 at 6:25 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Jarratt, Judy <Judy.Jarratt@ttuhsc.edu>

Tue, May 5, 2020 at 12:06 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

As a member of the Texas Counseling Association I wish to submit the following recommendations.

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may onlyalso review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

- (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice

marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Dr. Judy Jarratt, Ed.D., LPC, CSC

Senior Director for CATR (Campus Alliance Telehealth Resources)



Mailing - 3601 4th Street, STOP 7110, 79430

Phone: 8006-743-1887

judy.jarratt@ttuhsc.edu

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 5, 2020 at 1:59 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Tue, May 5, 2020 at 4:08 PM

Janet Finch <drjanfinch@gmail.com>
To: open.records@tsbep.texas.gov

Comments on Proposed Rules 22TAC Chapter 881.

My name is Janet Finch, PhD, LCSW, and I am a **licensed social worker**. I have been in practice in Texas since 1982. I am also an LCSW Supervisor and a retired Faculty in the School of Social Work at UT Arlington.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Janet Finch, PhD, LCSW

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:49 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jenifer McLuskie <jmcluskie@sbcglobal.net>

Tue, May 5, 2020 at 4:10 PM

Reply-To: Jenifer McLuskie <jmcluskie@sbcglobal.net>

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Jenifer McLuskie I am a **licensed social worker (LSW)** and I am a supervisor of four caseworkers who all work within social services to help undocumented children who have left immigration detention facilities and one caseworker who assists families who have exited family or other immigration detention facilities as they seek asylum in the United States.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jenifer McLuskie, LMSW (Texas) and LGSW (District of Columbia)

APPLICATIONS & LICENSURE
SUBCHAPTER A – LICENSE APPLICATIONS
§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide

adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~else~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b)

appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Jenifer McLuskie

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jennifer Vasquez <yogajena@gmail.com>

Tue, May 5, 2020 at 4:11 PM

To: open.records@tsbep.texas.gov

My name is Jennifer Vasquez and I am a licensed clinical social worker and PhD social work student. I am a full time Lecturer at Texas State School of Social Work and part time Lecturer at Lady of the Lake University School of Social Work.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Vasquez, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g)(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must may only also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Jennifer Vasquez, LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Rebecca Cole <rebecca@rebeccacole.net>

Tue, May 5, 2020 at 4:13 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good Afternoon,

My name is Rebecca Cole and I am a **licensed clinical social worker**. I am a licensed clinical social worker for the Harris Center, the local mental health authority for Harris County, Texas. I provide crisis intervention paired with a licensed peace officer with Houston Police Department. I am the only social worker on my team. I take pride in my ability to provide this service to my community in my community and represent the social work field as well.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Rebecca Cole, LCSW

281-799-9416

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

- (c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

- (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rule 22TAC Chapter 881

2 messages

Tue, May 5, 2020 at 4:18 PM

Kayla Sohns <kayla.sohns@gmail.com>
To: open.records@tsbep.texas.gov

My name is Kayla Sohns and I am a licensed social worker in Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Kayla Sohns, LMSW

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Ginger Chun <gmainchun@gmail.com>

Tue, May 5, 2020 at 4:43 PM

To: open.records@tsbep.texas.gov

My name is Ginger Chun and I am a student working on a master's degree in social work. I am already working in the social work field providing case management and mentorship to individuals experiencing homelessness as well as to families and individuals experiencing hardship.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ginger Chun

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

~
Ginger Chun
210-875-1392

"Be kind, it costs nothing"

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules

2 messages

Domenica (Domino) Domingue <pretty_domino@yahoo.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 4:49 PM

My name is Domenica Domingue and I am a **licensed social worker/social work student**. I work with dialysis patients in an outpatient setting as an LMSW providing patients with ways to cope with their normal and assist with getting insurance and transplants.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Domenica Domingue

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) ~~_____~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) ~~_____~~ the Governor declares a disaster under Government Code §418.014; and

(2) ~~_____~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) ~~_____~~ the Governor declares a disaster under Government Code §418.014;

(2) ~~_____~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ _____ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Tue, May 5, 2020 at 4:50 PM

Delaine Taylor <delaine@bliss-psychotherapy.com>
To: open.records@tsbep.texas.gov

My name is Jennifer Delaine Taylor and I am a licensed clinical social worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.

Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Delaine Taylor, LCSW
Bliss Psychotherapy & Consulting
349 Keller Parkway
Keller, Texas 76248
T 817.382.2249
F. 817.541.4483
<http://www.bliss-psychotherapy.com>

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:51 AM

Brenda Skiff
Public Information Officer/
Legal Assistant



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

NAOMI FREIREICH <naomifreireich@yahoo.com>

Tue, May 5, 2020 at 5:04 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Naomi Freireich and I am a **licensed social worker. I have a private practice in Austin and work with adults and adolescents struggling with mental health issues.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is

broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:51 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Tue, May 5, 2020 at 5:10 PM

Steven Parks <thehealingplacetherapy@gmail.com>
To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is **Steven Parks, LCSW-S** and I am a **licensed clinical social worker and supervisor**.

I specialize in treating children and adolescents with a severe trauma history. I also provide clinical supervision to licensees.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

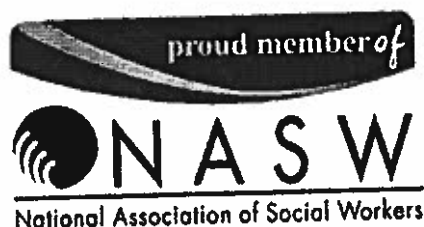
1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Steven L. Parks, LCSW-S, MBA, RPT-S

Steven L. Parks, LCSW-S, RPT-S, MBA
The Healing Place





Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Kristen Gonzalez <kristengonzalez10@yahoo.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 4:03 PM

My name is Kristen Gonzalez and I am a **social work student**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Kristen Gonzalez

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:51 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 8812 messages

Harnden, Susan C <susan.harnden@austin.utexas.edu>

Tue, May 5, 2020 at 5:51 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

ADVOCACY ALERT – Improve the Licensing Board!**Submit Comments before May 22, 2020**

The Texas Behavioral Health Executive Council (BHEC) established in **HB 1501** (86R) will become fully operational on September 1, 2020. All behavioral health licensing boards – including the Texas State Board of Social Work Examiners – will be housed at BHEC which will be responsible for the administrative management of each board, including processing licenses, managing complaints, and overall operations.

The proposed rules are extensive because they establish all functions for a brand new state agency. It is essential that these rules be carefully vetted to ensure they align with the legislative intent of HB 1501 and preserve the authority of each independent licensing board housed at BHEC.

The National Association of Social Workers - Texas (NASW-TX) along with the Texas Society for Clinical Social Work (TSCSW), the Texas Counseling Association (TCA), the Texas Association of Marriage and Family Therapists (TAMFT) and the Texas Psychological Association (TPA), was provided a preview of the proposed rules and an opportunity to provide stakeholder input at the December BHEC meeting. Many of our suggestions were adopted and are reflected in the published rules. **However, several important revisions were not made, including licensure fees.**

NASW/TX, in partnership with TCA, TSCSW, TAMFT and TPA, did a thorough review of the published rules and will be submitting a unified statement requesting additional, important changes.

We need your help!

A large volume of comments is needed. It is essential that all licensees review the proposed rules and submit comments.

The proposed rules were published in the April 24, 2020 issue of the Texas Register.

Please feel free to use **the email template** at the end of this email as well as any other revisions that you identify.

My name is Susan Harnden, I am a Licensed Clinical Social Worker at the University of Texas at Austin Employee Assistance Program. I serve the employees of the university.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that

BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.

2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Susan Harnden, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(~~bd~~) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(~~ee~~) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(~~ef~~) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(~~e~~) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(~~fh~~) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(~~gi~~) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or

ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Susan Harnden, LCSW, CEAP | Director, HealthPoint: Balance & Well-being in Work & Life | pronouns: she/her | The University of Texas at Austin | UTA 1616 Guadalupe 2.304 | 512.471.3366 | Direct Line 471-9105

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:52 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
(Quoted text hidden)



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Tue, May 5, 2020 at 6:09 PM

Michelle Zadrozny <michelle.zadrozny@gmail.com>
To: open.records@tsbep.texas.gov

My name is Michelle Zadrozny and I am a **licensed clinical social worker and board approved supervisor**. I co-own and manage A private practice at Plumeria Counseling center in AUSTIN.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Michelle Zadrozny, LCSW-S, EAS-C
Clinical Director, Plumeria Counseling Center
Branch Chair, NASW Capital Area

512-799-9348 Cell
Www.plumeriacounseling.com
Www.transformationalworkplace.com

Confidentiality Notice: This email is confidential. If the reader of this message is not the intended recipient, you are notified that any distribution or copying of this message is prohibited. If you have received this communication in error; please delete and immediately notify the sender by telephone or email.

Wed, May 6, 2020 at 9:53 AM

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Tue, May 5, 2020 at 6:29 PM

Raena Williams <rgrantw36@gmail.com>
To: open.records@tsbep.texas.gov

My name is ___Raena Williams___ and I am a **recent Master of Social Work graduates**. : I passed my licensure exam in February 2020 and due to Covid 19 I have not been able to practice or be provided an emergency temporary license to practice. I have an employer that would like to hire me to provide therapy to clients dealing with mental health/substance abuse. However due to the delayed response and lack of staff to review my case I am unable to see clients. I currently work as a case manager with Early Childhood Intervention. Please take my situation and others like mine into consideration.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Raena J. Williams, MSW

Wed, May 6, 2020 at 9:54 AM

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments

2 messages

Laurie Stephens <lasstephens61@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 6:39 PM

My name is Laurie Stephens, LMSW-IPR and I am a hospice social worker in the Houston area.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Laurie Stephens, LMSW-IPR

TX 28933

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(e)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014; and

~~(2)~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014;

~~(2)~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC draft rules

2 messages

Jen C <jennifercanning1979@gmail.com>

Tue, May 5, 2020 at 6:50 PM

To: open.records@tsbep.texas.gov

My name is Jennifer Canning and I am a social work student.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Canning

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC rules

2 messages

Tiffany Frias <tiff.frias@gmail.com>

Tue, May 5, 2020 at 6:55 PM

To: open.records@tsbep.texas.gov

Please consider making the following changes to the proposed rules for the Texas Behavioral Health Executive Council

General Provisions SUBCHAPTER B – RULEMAKING §881.20 Rulemaking by Executive Council (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns. (d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent. • Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition. (c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule. Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays. • Applications and Licensure

SUBCHAPTER A – LICENSE APPLICATIONS §882.9. Established Application Processing Time (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis. Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category. SUBCHAPTER G – EMERGENCY

TEMPORARY LICENSE §882.70. Emergency Temporary License. (a) For purposes of this section, the term “good standing” means there is not current disciplinary action on the out-of-state license, certification, or registration. (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if: (1) the Governor declares a disaster under Government Code §418.014; and (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state. (c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if: (1) the Governor declares a disaster under Government Code §418.014; (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster; (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and (3) the applicant meets the requirements set forth herein below. (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first. (ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor. (df) To be eligible for an emergency temporary license, an applicant must: (1) submit an application in the form prescribed by the Council; and (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing. (e) For purposes of subsection (d) of this section, the term “good standing” means there is not current disciplinary action on that out-of-state license, certification, or registration. (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must

submit a renewal application on a board-approved form on or before the license expiration date. (fh) An individual practicing under an emergency temporary license must: (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client; (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and (3) comply with all other applicable Council rules. (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license. • Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

--
Tiffany Frias, LPC
210-396-1944
blackbirdcounselingandwellness.com

Because we cannot guarantee confidential and timely communication by email, it is the general practice of Blackbird Counseling & Wellness, PLLC not to communicate with clients by email. If you choose to email this address, please be aware that internet email is not a secure medium and others may be able to read your messages and my responses.



Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:55 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Gianna Viola <giannaviola@gmail.com>

Tue, May 5, 2020 at 7:12 PM

To: open.records@tsbep.texas.gov

My name is Gianna Viola and I am a **licensed social worker (LCSW-S)** in Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Gianna Viola, LCSW-S, CGP

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(e)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Gianna Viola, LCSW-S, CGP

Viola Therapy, PLLC

Psychotherapy & Clinical Supervision

512.942.7798

giannaviola.com

Please note that email is not considered a secure medium; confidentiality cannot be ensured.

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:55 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Natalie Beck <natalie.d.beck@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 7:22 PM

Good afternoon,

My name is Natalie Beck and I am a Licensed Clinical Social Worker and Board-Approved Supervisor. I am a social work professor at a university here in Austin.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Natalie Beck

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

NJ Long <tijnjong@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 12:16 AM

Hello,

My name is Nancy Jo Long and I have a masters in social work and I am a candidate for licensure in the State of Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Nancy Jo Long

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE**§882.70. Emergency Temporary License.**

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must may only also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

**Brenda Skiff** <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Scott Bendle <scott.bendle.lpc@gmail.com>

Wed, May 6, 2020 at 8:00 AM

To: open.records@tsbep.texas.gov

Good day!

I would like to endorse the proposed changes suggested by the Texas Counseling Association viewable at the following link:

TCA Suggested Changes to Proposed Rules 22TAC Chapter 881

If you have any questions, please feel free to contact me.
Thank you!

Sincerely,
Scott Bendle, MEd, LPC-S
(210) 427-0149

:

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Haley Williams <hbwilliams93@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 9:04 AM

Hello,

My name is Haley Williams and I am a licensed social worker. I work with college students, particularly those with learning disabilities and mental health issues.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Haley Williams

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(g) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)d An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881.

Haley Williams

Texas Ex | Class of 2016

Master's of Social Work, University of Texas, 2018

Phone: 913-775-0512

hbwilliams93@gmail.com

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Dallas Adams <dadams@menninger.edu>

Wed, May 6, 2020 at 9:04 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Dallas Adams and I am a licensed social worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Dallas Adams, LCSW-S

Sincerely,

Dallas Adams, LCSW-S

Comprehensive Psychiatric Assessment and Stabilization

Menninger

713.275.5215

dadams@menninger.edu

CONFIDENTIALITY NOTICE: This electronic information is confidential and has been disclosed to the named recipient(s) and is intended only for the use of that person(s). This confidential information is protected under State, Federal, and JCAHO regulations. The sender neither intends to waive any privilege, nor to authorize further dissemination or copying of this information. If the reader is not the named recipient or

that person's authorized agent, or this information has been sent by inadvertence, please notify sender or the Menninger Office of Risk Management immediately, by telephone, 1-800-351-9058, for further requested action.

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Wed, May 6, 2020 at 9:06 AM

JP Kendrick <jpkendrick1@gmail.com>
To: open.records@tsbep.texas.gov

My name is John Kendrick and I am a **licensed social worker/social work student**. *Optional: provide details about your job position and the clients you serve.*

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Best regards,

J.P. Kendrick

Sent from over here

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Diane Benefiel <dbenefiel@menninger.edu>

Wed, May 6, 2020 at 10:07 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To Whom It May Concern:

My name is Diane M. Benefiel and I am a licensed clinical social worker with supervision. I work at a psychiatric hospital in an inpatient unit. I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Diane M. Benefiel

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- Rationale: One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Diane M. Benefiel, LCSW, LCDC-I

Sr. Social Worker/Addictions Counselor

The Menninger Clinic



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

MaryAnn Kildebeck <MaryAnn@kildebeck.us>

Wed, May 6, 2020 at 10:29 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Cc: MaryAnn Kildebeck <MaryAnn@kildebeck.us>

My name is MaryAnn Brooks Kildebeck, LCSW, and I am a **licensed social worker/social work student**.
Optional: provide details about your job position and the clients you serve.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ *may* solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ *may* specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ *may only* ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881

MaryAnn Kildebeck, LCSW

Direct: 972-377-6400

Fax: 855-856-6484

1015 West Oak Street

Denton, TX 76201

(In the Historic District, so no signage is allowed. This is a two-story brown brick building with a red tile roof.)

8668 John Hickman Pkwy. #905

Frisco, TX 75035

(At the NE corner of John Hickman and Legendary Drive. It is the SECOND building east of Legendary Drive.)

PO Box 1647

Denton, TX 76201

HAVE ALL MAIL SENT HERE

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 10:38 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Wed, May 6, 2020 at 10:34 AM

Mikayla Knight <mikaylamarz02@gmail.com>
To: open.records@tsbep.texas.gov

To whom it may concern,

Good morning. My name is Mikayla Knight and I am a **licensed social worker**. I am a Social Services Director at a Nursing and Rehabilitation facility in College Station, serving our community's vulnerable older adults, ensuring they rehab successfully and have a good quality of life as they live in our facility.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.
3. Licensing Times: As already mentioned, social workers experience extreme backlog on the licensing application and renewal process. This delay in timeliness results in loss of income, loss of opportunity, and also loss in motivation to pursue social work employment. We also ask that BHEC address timeliness issues when granting new licenses and renewals, as this directly hurts our vulnerable populations who need social workers.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Mikayla Knight, (she/her/hers), LMSW
Master of Social Work- Texas State University 2019

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 10:39 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jillian Bissar <jillianbissar@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 12:31 PM

My name is Jillian Bissar, LCSW and I am a **licensed social worker/social work student**. I work with cancer patients at one of the top cancer hospitals in the country right here in the great state of Texas. Our patients come from all over the country and world to receive care at our facility.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jillian Bissar, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)d An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(d)f To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)h An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments BHEC draft rules

2 messages

Rose Mary Rodriguez <rmrod87@yahoo.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 12:48 PM

My name is Rose Mary Rodriguez from El Paso, Texas, and I am a **Licensed Clinical Social Worker**. I have been working with the Las Palmas Kidney Transplant Center for the last 3 years serving patients who are being evaluated for a kidney transplant or have already received a transplant. I have 40 years post-graduate experience in the areas of vocational rehabilitation, medical social work, and school social work addressing individuals with special needs.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged. I also bring to your attention that social worker's salaries are not adequate so any increase in licensing rates impact the decisions of trained social workers to remain in the profession as opposed to entering another sector of employment for better pay.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely

Rose Mary Rodriguez, LCSW/ C-ASWCM

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide

adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(e)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b)

appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 12:56 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Wed, May 6, 2020 at 1:37 PM

Billington, Leslie <Leslie_Billington1@baylor.edu>
To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

My name is Leslie Billington and I am a **social work student in my last semester of graduate school. I am serving patients in Hospice care for my placement.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Leslie Billington

Wed, May 6, 2020 at 2:55 PM

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Elizabeth Hummert <Elizabeth.Hummert@gpisd.org>
 To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Wed, May 6, 2020 at 3:34 PM

My name is Elizabeth Hummert and I am a Licensed Clinical Social Worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Elizabeth Hummert

LCSW - Supervisor #40267

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report

will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As

proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Elizabeth "Liz" Hummert, LCSW, Clinical Supervisor

Student Mental Health and Safety Advisor

Grand Prairie ISD

972-522-7074



Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 6:39 PM

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments

5 messages

Charles Lavine <clavine1@att.net>

Tue, May 5, 2020 at 12:53 PM

To: open.records@tsbep.texas.gov

To Whom It May Concern:

Attached are my comments to proposed new rules under consideration by the Texas Behavioral Health Executive Council.

My proposed deletions are indicated by strikethroughs, and proposed additions and changes are indicated in red type.

I am a Licensed Professional Counselor (license # 13146), and a current member of the Texas Counseling Association (TCA). TCA is encouraging its members to read the proposed rules and offer comments.

Respectfully,

Charles Lavine, LPC.

 **Comments BHEC.pages**
354K

Brenda Skiff <brenda@tsbep.state.tx.us>

Tue, May 5, 2020 at 1:59 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

 **Comments BHEC.pages**
354K

Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 5, 2020 at 4:06 PM

To: Brenda Skiff <brenda@tsbep.state.tx.us>

Brenda:

I wasn't able to view this guy's attachment were you? If not we can check with Pat to make sure we download it correctly.

Thanks,

Patrick Hyde
General Counsel
Texas State Board of Examiners of Psychologists
333 Guadalupe, Suite 2-450
Austin, Texas 78701
Tel.: 512-305-7700
Fax: 512-305-7701

general.counsel@tsbep.state.tx.us

NOTICE: This communication may be confidential and/or privileged under law, specifically including Rule 192 of the Texas Rules of Civil Procedure, Article V of the Texas Rules of Evidence, Section 501.205 of the Texas Occupations Code, and other applicable statutory, quasi-statutory, and common law authorities. Additionally, pursuant to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and court interpretations thereof, the information that is contained within this communication may not be subject to disclosure to the public and further may be protected from disclosure or production for other purposes. This information is intended for the exclusive use of the addressee or addressees named above. If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee name above), copying or the taking of any action because of this information is strictly prohibited. If you have received this information in error, please immediately notify me by telephone to arrange for the return of the document.

[Quoted text hidden]

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 7:09 AM

I couldn't either.

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]

Patrick Hyde <general.counsel@tsbep.state.tx.us>
To: Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:30 PM

Attached is a Word version of what was sent.

Patrick Hyde
General Counsel
Texas State Board of Examiners of Psychologists
333 Guadalupe, Suite 2-450
Austin, Texas 78701
Tel.: 512-305-7700
Fax: 512-305-7701
general.counsel@tsbep.state.tx.us

NOTICE: This communication may be confidential and/or privileged under law, specifically including Rule 192 of the Texas Rules of Civil Procedure, Article V of the Texas Rules of Evidence, Section 501.205 of the Texas Occupations Code, and other applicable statutory, quasi-statutory, and common law authorities. Additionally, pursuant to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and court interpretations thereof, the information that is contained within this communication may not be subject to disclosure to the public and further may be protected from disclosure or production for other purposes. This information is intended for the exclusive use of the addressee or addressees named above. If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee name above), copying or the taking of any action because of this information is strictly prohibited. If you have received this information in error, please immediately notify me by telephone to arrange for the return of the document.

[Quoted text hidden]

 **Comments BHEC.docx**
486K

Comments on BHEC Rules

• General Provisions

SUBCHAPTER B - RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

• Complaints and Enforcement

SUBCHAPTER B - INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

• Applications and Licensure

SUBCHAPTER A - LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G §882.70.

- EMERGENCY TEMPORARY LICENSE

Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)~~ (b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice

marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and~~

~~rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below. ~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ (f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction. ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ (h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- Rationale:

onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

The unprecedented severity and magnitude of the current outbreak has shed some light



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Wed, May 6, 2020 at 3:45 PM

Charlotte Cooper <charlwork1@gmail.com>
To: open.records@tsbep.texas.gov

My name is Charlotte B. Cooper and I am a **licensed social worker**. I have worked in the Austin area for over 50 years. I contract with NASW/Texas to manage the Clinical Reimbursement Project. The Project assists Licensed Clinical Social Workers in independent practice with reimbursement issues and resources.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Charlotte B. Cooper, LCSW
4003 Ridgelea Drive
Austin, Texas 78731

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:01 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Taylor, Emma <Emma_Jones@baylor.edu>

Wed, May 6, 2020 at 4:14 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Emma Taylor and I am an LCSW. I work as a therapist for children and adolescents with chronic illnesses, and I am also a faculty member and lecturer in an MSW program.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Emma Taylor, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and

appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b~~d~~) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e~~d~~) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(d~~f~~) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f~~h~~) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ *may* solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ *may* specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Emma Taylor, LCSW

Lecturer

Diana R. Garland School of Social Work

Baylor University - Houston Extension

Email: emma_jones@baylor.edu

4100 S. Main St.
Houston, TX 77002

Cell Phone: 713-907-4616

She, her, hers

Confidentiality Notice: The documents accompanying this Email transmission contains confidential information belonging to the sender that is legally privileged. This information is intended only for the use of the individual or the entity named above. If you are not the intended recipient, you are hereby notified that any disclosures, copying, distribution or the taking of any action in reliance on the contents of the email information is strictly prohibited.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:01 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

3 messages

Ann Marie Haney <amhaney@live.com>

Wed, May 6, 2020 at 4:24 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good afternoon,

My name is Ann Marie Haney, and I am a licensed clinical social worker. I provide outpatient behavioral health services at Hope Clinic, a Federally Qualified Health Center in Waxahachie, TX. We serve patients regardless of their ability to pay, providing increased access to care for our community.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ann Marie Haney, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

- a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for

each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location ~~when~~ delivering services, or provide written notification of the license number and instructions on how to ~~verify~~ the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ ~~may only~~ ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed § 881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Mary Jo Kraus <maryjoannekraus@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 5:32 PM

My name is Dr. Mary Joanne Kraus and I am a **licensed clinical social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

I would like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Dr. Mary J. Kraus, LCSW
19206 Huebner Rd. #104
San Antonio, TX 78258
(v) 706-247-3515
(f) 210-499-4956
www.mjkfamilytherapy.com
maryjoannekraus@gmail.com

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:02 AM

Brenda Skiff
Public Information Officer/
Legal Assistant



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Trey Johnson <ctreyjohn@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 9:15 PM

My name is Trey Johnson and I am a licensed master social worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Trey Johnson, LMSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(e)(i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Cheryl Jones <chcjones@gmail.com>
To: open.records@tsbep.texas.gov

Thu, May 7, 2020 at 7:36 AM

Good morning,

My name is Cheryl Jones, LMSW and I am a licensed social worker in Dallas working for a social service agency full time and a local hospital system on the weekends.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Cheryl Jones, LMSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:03 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Linda Knewton <LKnewton@menninger.edu>

Thu, May 7, 2020 at 9:03 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Linda Knewton and I am a licensed clinical social worker employed at The Menninger Clinic in Houston. We serve patients with psychiatric illness.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature is a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Linda Knewton, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014; and

~~(2)~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014;

~~(2)~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)(g)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional

counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) _____ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing

standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Linda Knewtson, LCSW-S

Social Worker

CPAS

The Menninger Clinic

12301 Main Street

Houston, TX 77035

lknewtson@menninger.edu

Phone: 713-275-5078

Fax: 713-275-5490



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Shannon Huggins <shannon@shannonhuggins.com>

Thu, May 7, 2020 at 11:49 AM

To: open.records@tsbep.texas.gov

To Whom It May Concern:

My name is Shannon Huggins and I am a licensed clinical social worker and supervisor in private practice where I treat children and families as well as adults with psychiatric illness. I appreciate being able to provide the following comments on the Texas Behavioral Executive Council (BHEC) draft rules. I want to use this opportunity to improve the licensing board to better serve all social workers in the state. We need an efficient and skilled board to function at its highest capacity to help social work professionals meet the many needs of Texans, especially during the time of COVID-19.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points.

1) BHEC Discretion re: Emergency License - COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing.

2) Licensing Rates - It is disappointing to see that our social work licensing rate has increased. Social workers already struggle with immense backlogs and delays with licensing applications and renewals. As rates have increased, board responsiveness to critical licensing needs has decreased. I ask that BHEC rules keep social work licensing rates unchanged.

Thank you for allowing me to provide feedback on the BHEC rules. I look forward to working together to improve board processes for social work licensure.

Sincerely,
Shannon Huggins, LCSW-S, BCD

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

- ~~(1)~~ the Governor declares a disaster under Government Code §418.014; and
- ~~(2)~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

- ~~(1)~~ the Governor declares a disaster under Government Code §418.014;
- ~~(2)~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster
- (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
- (3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

- (1) submit an application in the form prescribed by the Council; and
- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

~~(gi)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

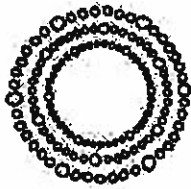
GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

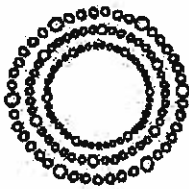
- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



SHANNONHUGGINS
LCSW-S·BCD

Psychotherapist and Board Approved Supervisor
Clinical Director Open City Psychotherapy
8133 Mesa Drive, Suite 104 Austin, TX 78759
Phone 512.538.0558 / Fax 512.538.0598
shannon@shannonhuggins.com / www.shannonhuggins.com

This email and its attachments may contain privileged and confidential information and/or protected health information (PHI) intended solely for the use of Shannon Huggins, LCSW-S, BCD and the recipient(s) named above. If you are not the recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any review, dissemination, distribution, printing, or copying of this email message and/or any attachments is strictly prohibited. If you have received this transmission in error, please notify the sender immediately at 512-538-0558 and permanently delete this email and any attachments.



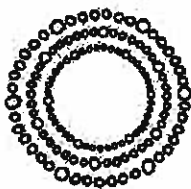
PastedGraphic-1.tiff
23K

SHANNONHUGGINS
LCSW-S·BCD

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 12:05 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



PastedGraphic-1.tiff
23K

SHANNONHUGGINS
LCSW-S·BCD



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on BHEC Rules

1 message

Angie Novak <angie.novak@pisd.edu>

Thu, May 7, 2020 at 4:04 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To Whom it May Concern,

As a proud member of the Texas Counseling Association, I am very passionate about promoting professional counselors. Please consider my proposed comments in the attached document.

Our fellow Texans deserve access to mental health workers, especially when the mental health needs increase as the impact of this epidemic continues.

Best Regards,
Angela Novak LPC-Intern
Plano, Texas

**Comments_BHEC Proposed Rules_04.24.20.pdf**

127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Deeter, Anastasia L. <aldeeter@texaschildrens.org>
To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Thu, May 7, 2020 at 11:33 AM

Good morning,

My name is Anastasia Deeter and I am a Licensed Clinical Social Worker (LCSW). For the past five years I have worked at Texas Children's Hospital providing services to children and families. In my role I often provide crisis intervention, supportive counseling, psychosocial education, case management, and complete a variety of assessments. I also serve on our leadership team and assist with ensuring best patient practices, as well as coordinate all of our social work internship opportunities. In addition, I also serve as a Board Approved Clinical Supervisor.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommended and the sections covered. I would also like to highlight two important points.

1. BHEC Discretion re: Emergency License – COVID 19 has shown that social work licensure across states can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing rates – it is incredibly disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. For instance, I have one supervisee who is still waiting to hear back from the board on acknowledgement of their completion of LCSW supervision and approval to sit for their exam; it has been nearly four months. The students I work with often report it taking between two to six months, four months appearing to be average, to receive approval to sit for their LMSW examinations. We continue to see licensing rates grow without any changes to show for it. If I am to read the proposed rules correctly, I can assume that my renewal rates as an LCSW-Supervisor will increase by \$113 per renewal period, that is over \$55 increase per year. We ask that the BHEC rules to keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Anastasia

Anastasia Deeter, LCSW-S

Clinical Specialist- Student Programming
Instructor- Baylor College of Medicine

1102 Bates Ave, Ste 1930
Houston, TX 77030

Direct	Pager	Fax
832-824-0729	832-824-2099	832-825-6366



Applications & Licensure

SUBCHAPTER A- License Applications

882.9. *Established Application Processing Time*

A. The Council shall publish the minimum, maximum and median times for processing applications by by each license type during the preceding 12-month period on its website, together with a justification for each of the periods. These figures will be updated on an annual basis.

- a. **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G- Emergency Temporary License

882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a-b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) The Governor declares a disaster under Government Code 418.014; and

(2) The person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) the Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) The Governor declares a disaster under Government Code 418.014;

(2) The person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under 418.014 and issues a proclamation in accordance with the Government Code 418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(3) The Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(4) The applicant meets the requirements set forth herein below.

~~(b d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work with in the disaster designated by the governor.

~~(d f)~~ to be eligible for an emergency temporary license, an applicant must:

(1) Submit an application in the form prescribed by the Council; and

~~(2)~~ Submit written verification that the applicant is actively licensed, certified, or registered to practice marriage and family therapy, professional counseling, psychology, or social work in another jurisdiction and the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f h)~~ An individual practicing under an emergency temporary license must:

(1) Display a copy of the emergency temporary license in a conspicuous location when delivering services or provide written notification of the license number and instructions on how to verify the status of a license when initiation services with a patient or client;

(2) Provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) Comply with all other applicable Council rules.

~~(g i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

Rationale: The unprecedented severity and magnitude of the current outbreak has shown some light on appropriate disaster response provisions for health care providers. The proposed language referring to practical agency discretion is far more restrictive than current practice, and arguably conflicting with Government Code 418.117. The suggested language addresses these concerns by codifying the license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has

a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, the BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B- Investigation and disposition of complaints

884.12 Complaint Disposition

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering contested enforcement matter if there are concerns about the standard of care of ethical practice showed by the licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in 507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practices required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standard therefore must be required to consult with member boards when these issues arise in context of enforcement matters. The benefits of engaging each board outweighs any potential processing delays. _

-

GENERAL PROVISIONS

-

SUBCHAPTER B- Rulemaking

881.20- Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking author, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each separate member board for anti-competitive impacts, administrative consistency, and good governance concerns

Rationale: 507.153 of the Texas Occupations Code, enacted by eh 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Health Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed 881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader that statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as the legislative intent.

CONFIDENTIALITY NOTICE:

The information in this e-mail may be confidential and/or privileged. If you are not the intended recipient or an

authorized representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this e-mail and its attachments, if any, or the information contained herein is prohibited. If you have received this e-mail in error, please immediately notify the sender by return e-mail and delete this e-mail from your computer system. Thank you.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:33 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

roniprieto@elp.rr.com <roniprieto@elp.rr.com>

Thu, May 7, 2020 at 4:08 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Ronald W. Prieto and I am a Licensed Clinical Social Worker. I have just retired my position as Director of Case Management from an acute inpatient physical rehabilitation hospital, which I held for the past 20 years. Prior to that, I had ten years experience working in both inpatient and outpatient psychiatric settings. I began my work experiences before there was any licensure by the state of Texas. Thus, I am keenly aware of the need of having an efficient licensing board who is aware of the functions and scope of services for social workers.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ronald W. Prieto, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Subject line: Comments on Proposed Rules 22TAC Chapter 881.

statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:33 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Carol Ann Ross <carolann@daringventures.com>

Thu, May 7, 2020 at 3:49 PM

To: open.records@tsbep.texas.gov

Dear Texas State Board representative,

My name is Carol Ann Ross and I am a **licensed social worker**. I work for a small group practice that serves individuals, couples and families impacted by addiction.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. **BHEC Discretion re: Emergency License** – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates:** It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Carol Ann Ross, LMSW, CSAT, CMAT

Therapist | Addiction Specialist

Daring Ventures, Counseling, Coaching and Consulting, LLC

Certified Sex Addiction Therapist

Certified Multiple Addiction Therapist

DaringVentures.com

1.855.602.2554



APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would-current~~ practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or

ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Regarding New Rules for the Texas Behavioral Health Executive Council

2 messages

Thu, May 7, 2020 at 5:04 PM

Catie Munguia <catie.e.munguia@gmail.com>
To: open.records@tsbep.texas.gov

My name is Catie Munguia and I am a licensed social worker in Nacogdoches, TX. I currently practice in a public elementary school, and am in the process of completing the supervision and practice requirements for the LCSW clinical license.

I really appreciate the opportunity to provide comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans. It should be noted that current processing times are unreasonably slow, which affects the availability of qualified professionals where we are needed in our state. I am hopeful that this new board will prove to meet the stated goals of drastically improving efficiency of license-related matters

I would like to highlight two important points:

BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion. This has become an extremely pertinent issue in the context of the current pandemic, in which "normal" provision of services has been turned on its head and the need for the services provided by mental health professionals has skyrocketed.

Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Catie Munguia

"Si quieres paz, lucha por la justicia"

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Rachel Slaymaker <rxw99a@acu.edu>
To: open.records@tsbep.texas.gov

Thu, May 7, 2020 at 9:20 PM

My name is Rachel Slaymaker, and I am a **licensed social worker. I am also a social work educator who helps prepare students for licensure in the State of Texas.** I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(g)(i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

--
Rachel Slaymaker, LMSW, EdD Candidate

Associate Professor
Director of Field Education
Associate Director of the School of Social Work
Abilene Christian University
ACU Box 27866
Abilene, Texas 79699
325.674.2072 (main office)
325.674.2142 (direct ext)
www.acu.edu/socialwork

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Edits to HB 1501

2 messages

Claire Woll <clairemwoll@gmail.com>
To: open.records@tsbep.texas.gov

Fri, May 8, 2020 at 10:58 AM

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

My name is Claire Woll and I am a **licensed social worker providing counseling and mental health services to children, adolescents and young adults in Texas.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Claire Woll

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ else review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed

§881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 11:18 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Tara Ayala LCSW <taraayalalcs@gmail.com>

Fri, May 8, 2020 at 2:32 PM

To: open.records@tsbep.texas.gov

My name is Tara Ayala_ and I am a **licensed social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Tara Ayala

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881.

Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Sent from my iPhone

Brenda Skiff <brenda@tsbep.state.tx.us>

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 2:30 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Virginia Manuel <v.manuel.msw@gmail.com>
To: open.records@tsbep.texas.gov

Fri, May 8, 2020 at 7:24 PM

My name is Virginia D. Manuel, LMSW-AP and I am a **licensed social worker**. In my 43 years of practice, I have always worked in public or non-profit organizations which serve the lowest income individuals in Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Virginia D. Manuel, LMSW-AP

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical

delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(d) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ ~~may only~~ ~~else~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

National Association of Social Workers, Texas Chapter (NASW/Texas)

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Anita Franz <anitafranzlcs@lcs@gmail.com>

Fri, May 8, 2020 at 8:44 PM

To: open.records@tsbep.texas.gov

My name is Anita Louise Franz, and I am a **licensed clinical social worker** providing play therapy to children ages 3 - 11.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Anita Louise Franz, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Anita Louise Franz, LCSW
13706 Research Blvd Ste. 205
Austin, TX 78750

anitafranzlcsw@gmail.com
512-765-5705

****Please be aware that e-mail--and any form of electronic communication--is Social not a secure or confidential means of sending information. Be cautious when disclosing sensitive or private materials, as your message becomes the property of third parties (your server and your recipient's server). If you receive this or any e-mail communication in error, please contact the sender immediately and delete the message and any attachments/files. Copying, disclosing, or distributing the content of such electronic messages is prohibited.****

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Marcus Wade <mwade75705@yahoo.com>
To: open.records@tsbep.texas.gov

Sat, May 9, 2020 at 8:54 AM

My name is __Marcus Wade__ and I am a **licensed social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

Marcus Wade LCSW

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Improving the Texas Behavioral Health Executive Council (BHEC)

1 message

Monica McCarthy <mrmccarthy4@gmail.com>

Sat, May 9, 2020 at 1:54 PM

To: open.records@tsbep.texas.gov

To Whom it May Concern,

My name is Monica McCarthy I am a **Licensed Master Social Worker**. I currently work as a Program Specialist to the Texas Section 811 Project-Based Rental Assistance Program, which provides rental assistance to over 400 adults with disabilities and their households, allowing them to live in the community instead of an institution.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Monica McCarthy

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

--

Monica McCarthy, LMSW
Pronouns: she/her/hers
Email: mrmccarthy4@gmail.com
Phone: 847-477-6986



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

1 message

Donna Tomlinson <dtomlinson2032@gmail.com>
To: open.records@tsbep.texas.gov

Mon, May 11, 2020 at 11:29 AM

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

My name is Donna Tomlinson LCSW and I am a **licensed social worker/social work student**. *Optional: provide details about your job position and the clients you serve.*

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

Donna Tomlinson LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Suzanne Francis <suzeqf@gmail.com>

Mon, May 11, 2020 at 1:12 PM

To: open.records@tsbep.texas.gov

My name is Suzanne Camos and I am a **Licensed Clinical Social Worker here in the State of Texas.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged, at the very least until improvements can be made to the process.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Suzanne Camos, LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Lynn Panepinto <lpnepinto@utexas.edu>
To: open.records@tsbep.texas.gov

Mon, May 11, 2020 at 2:29 PM

Hello,

My name is Lynn Panepinto and I am a **licensed master social worker (LMSW)** in Austin. I work as a bilingual counselor with survivors of violence and abuse at a nonprofit organization.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. **BHEC Discretion re: Emergency License** – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates:** It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Lynn Panepinto, LMSW
Pronouns: she/her/hers
MSSW, School of Social Work
MA, Lozano Long Institute of Latin American Studies
lpnepinto@utexas.edu

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- ~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
- (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
- (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- ~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- ~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- ~~(d)(f)~~ To be eligible for an emergency temporary license, an applicant must:
- (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.
- ~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.
- ~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- ~~(f)(h)~~ An individual practicing under an emergency temporary license must:
- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must may only also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed

§881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881

2 messages

Pat Gleason-Wynn <drpgw@yahoo.com>

Mon, May 11, 2020 at 7:24 PM

Reply-To: Pat Gleason-Wynn <drpgw@yahoo.com>

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Pat Gleason-Wynn, PhD, LCSW. I am a Licensed Clinical Social Worker who works with older adults and their caregivers both in the community and in healthcare. I have been a social worker for 40 years.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need **an efficient and skilled board** to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.**

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

Pat Gleason-Wynn, PhD, LCSW, CSW-G
5009 Sheridan Court, Arlington, TX 76017

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Pat Gleason-Wynn, PhD, LCSW, CSW-G

Happiness does not depend on accumulating more things, but on the mindset we have concerning the things we already do possess. Fulton Sheen, Finding True Happiness

Brenda Skiff <brenda@tsbep.state.tx.us>

Tue, May 12, 2020 at 9:06 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Monique Rodriguez <mrodriguez@combinedarms.us>
To: open.records@tsbep.texas.gov

Wed, May 13, 2020 at 3:03 PM

Hello,

My name is Monique Rodriguez and I am a Licensed Master Social Worker licensed in Texas. I have recently been promoted to the El Paso Regional Manager as our organization has expanded from Houston to the El Paso community. The clients I serve include active duty service members, veterans, Reservists, National Guardsmen, caregivers, and their families (SMVF). I also serve organizations that serve SMVF from nonprofit, local, state, and federal agencies. We are a backbone collaborative organization that connects clients to quality organizations that can meet their needs. Furthermore, I work on several committees that focus on addressing veteran suicide and have written reports on veteran issues.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

- BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
- Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with an intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Monique Rodriguez, LMSW

Monique Rodriguez, LMSW

El Paso Regional Manager

Combined Arms

**COMBINED
ARMS**

Email Disclaimer: This message contains information that may be confidential or privileged. The information is intended solely for the recipient and its use by any other party is not authorized. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited. Please notify the sender if you received this email in error and delete the original. Thank you.

(832) 285-9531

mrodriguez@combinedarms.us

combinedarms.us

2929 McKinney St., Houston, TX 77003



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881

1 message

Arthur Rolland Fellows <arfellows@gmail.com>

Mon, May 18, 2020 at 7:26 AM

To: open.records@tsbep.texas.gov

I am submitting comments on the Subject line: Comments on Proposed Rules 22TAC Chapter 881.

Below are comments to the rules for the The Texas Behavioral Health Executive Council. I am suggesting that changes be made to the rules that establish the TBHEC that reflect the proposed changes in the rules below.

Attached is a PDF document with my suggestions.

Thank you for considering my suggestions.

Rolland Fellows, PhD
4131 Spicewood Springs
Suite G-6
Austin, TX 78759
Work/Cell : 512-346-1796

Full Name: Arthur Rolland Fellows

Proposed changes:



Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (b d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (e e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (d f) To be eligible for an emergency temporary license, an applicant must:

 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

- (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- (fh) An individual practicing under an emergency temporary license must:
- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.
- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Katie Rosato <katrosato80@gmail.com>

Mon, May 18, 2020 at 6:09 PM

To: Open.Records@tsbep.texas.gov

My name is Katherine Rosato and I am a **licensed social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Katherine Rosato LMSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Rebecca Lincoln <rebecca@lincolnipc.com>

Tue, May 19, 2020 at 10:39 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

For your consideration regarding the Texas Behavioral Health Executive Council (BHEC), I recommend the following changes:

Regarding 881.20, change "must also" to "may only" ; This will better align with 507.153 of the Occupational Code

§881.20 Rulemaking by Executive Council (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Regarding 884.12, Change "may" to "shall"; The member boards are the best source of ethical complaints and have the knowledge of the specific profession. Member boards shall be consulted. I realize this may delay processing, however, it is important to consult the member boards.

§884.12 Complaint Disposition. (c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Regarding 882.70, Please make the changes as recommended by The Texas Counseling Association, National Association of Social Workers - Texas (NASW-TX), Texas Society for Clinical Social Work (TSCSW), the Texas Association of Marriage and Family Therapists (TAMFT) and the Texas Psychological Association (TPA),

These are all outstanding organizations that support the professions of mental health counseling. Heed their recommendations.

Thank you for your consideration.

Warmly,

Rebecca Lincoln, LPC-S #17816

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 20, 2020 at 10:03 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Joe K. Hartsoe <joehartsoe@gmail.com>

Thu, May 21, 2020 at 10:16 AM

To: open.records@tsbep.texas.gov

To Whom It May Concern:

My name is Joseph Hartsoe and I am a social work student who has graduated and waiting for my license to be issued any day. My previous experience and future area of practice is working with youth in the school setting to provide social and emotional support with education to enhance their functioning, increase matriculation, and entrance into the Texas society as contributing members to our communities.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. Our profession continue to see licensing rates grow without any change to show for it. I ask *that BHEC rules keep our rates unchanged.*
 1. The renewal fee on LMSW/LCSW licenses is of particular concern when compared to the renewal fee of LPC's. LMSW practitioners do not have the same independent practice authority as LPC holders but yet, your proposed plan outlines that the two be charged the same rate for their license renewal each cycle.
 2. Further, it is unfortunate to see that LCSW practitioners are required to pay more than LPCs for their license renewal. LCSW's traditionally offer comparable services in psychotherapy and independent practice authority, yet, the board's current proposal state that LCSW's be charged more for their license renewal compared to their LPC colleagues.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Joseph Hartsoe

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another

jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) ____ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS**SUBCHAPTER B – RULEMAKING****§881.20 Rulemaking by Executive Council**

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:56 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment on Proposed BHEC Rules

2 messages

Jan Friese <Jan@txca.org>

Thu, May 21, 2020 at 8:59 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

Cc: "Will Francis - National Association of Social Workers/Texas Chapter (WFrancis@naswtx.org)" <WFrancis@naswtx.org>, Tris Castaneda <tcastaneda@longbow-partners.com>, "Mark Hanna (mhanna@markjhanna.com)" <mhanna@markjhanna.com>, TPA Executive Director <jessica@texaspsyc.org>

Thank you for the opportunity to comment on the Texas Behavioral Health Executive Council proposed rules. I am submitting the attached letter on behalf of the National Association of Social Workers, Texas Chapter; the Texas Association for Marriage and Family Therapy; the Texas Counseling Association; the Texas Psychological Association; and the Texas Society for Clinical Social Work. It reflects our collective comments on the rules published in the April 24th issue of the *Texas Register*.

We appreciate the opportunity to work with you on the successful launch of BHEC and appreciate your consideration of these suggested modifications to the published rules.

Jan Friese

Executive Director

Texas Counseling Association

www.txca.org

512-472-3403, ext 11

TCA: Professional Counselors committed to advocacy, leadership and the promotion of professional excellence.

Renew or Join Today!

TCA leads, educates and advocates to advance the counseling profession, to increase access to professional counselors, and to promote wellness.

TexasBehavioralHealthExecutiveCouncil_ProposedRules_PublicComment_Behavioral Health Coalition_05.21.20.pdf
271K



Texas Society for Clinical Social Work



May 15, 2020

Coalition Comments on Texas Behavioral Health Executive Council DRAFT RULES

The mental health professional associations listed above represent Licensed Marriage and Family Therapists, Licensed Professional Counselors, Psychologists and Social Workers. The comments herein reflect our collective efforts to ensure the successful launch and functioning of the newly created Texas Behavioral Health Executive Council (BHEC).

We appreciate the legislative leadership and thoughtful emphasis on strengthening the mental health infrastructure in Texas and applaud the many hours of implementation work in connection with establishing a well-functioning and responsive BHEC. BHEC is an innovative strategy to create operational efficiencies while maintaining the integrity of the respective member boards' appropriate regulatory authority over what makes each mental health professional licenses unique. The regulatory authority delegated to BHEC is explicitly limited to establishing operational efficiencies and ensuring that any rule promulgated by a member board does not violate federal antitrust laws by limiting competition or impacting prices charged by persons engaged in a profession or business the executive council regulates. This ensures active state supervision while protecting the state's sovereign immunity.

Our associations appreciate the opportunity to participate both informally and formally in the process to adopt the rules that will govern BHEC's operating procedures and relationship with our respective licensing boards. Many of the proposed rules reflect the comments and recommendations delivered by us at your last meeting, but there are additional rules we would respectfully submit for your consideration, such as those allowing for emergency licenses, that reflect the current health crisis and should provide for a much swifter state response in the future.

We welcome your favorable consideration and encourage the agency to adopt the language recommendations listed below to ensure the rules as finally adopted are consistent with Chapter 507 of the Texas Occupations Code, as well as current and best practices.

Applications and Licensure

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

- (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: One of the key features contemplated by the Legislature in creating BHEC is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report

will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (f) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and

- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~
- (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- (fh) An individual practicing under an emergency temporary license must:
 - (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. The published language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested new language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12

Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. BHEC does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

General Provisions

SUBCHAPTER A – GENERAL PROVISIONS: Add a new §881.14 as follows:

§881.14 **Impartiality and Non-discrimination**

- (a) The BHEC board members will make decisions in the discharge of its statutory authority without regard to a person's age, race, religion, ethnicity, sex, gender, affectional orientation, disability, national origin, or genetic information.
- (b) Any BHEC board member who is unable to be impartial in the determination of disciplinary action against a licensee or who is determined to have a conflict of interest as set forth in §881.5 will declare this to the board and will not participate in any board proceedings involving that licensee.
- (c) A person needing accommodations under the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) in order to access BHEC board services must request reasonable accommodations in writing and may be required to provide verification of the person's disability and recommendations for appropriate accommodations from a medical, mental health, rehabilitation, or educational professional or specialist qualified to make such recommendations.

Rationale: Each of the member boards housed at BHEC have similar language currently in their rules. It appears that due to the role BHEC has in issuing licenses and administering the complaint process, those specific rules are being removed as the individual member boards propose rules changes to align with HB 1501 and the creation of BHEC. These protections, however, should be maintained by BHEC. We anticipate that the omission of this important language is an oversight since these rules were developed prior to the rule reviews undertaken by the individual member boards.

SUBCHAPTER B – RULEMAKING

§881.20 **Rulemaking by Executive Council**

- (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the

Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) Member boards must submit a new draft rule or rule change to the Council for consideration by submitting a draft of the rule with any deletions crossed through and additions underlined. The draft must also contain each of the notice components required in a preamble (e.g. §2001.024 of the Government Code) when proposing a new rule or rule change to the Council, member boards must also submit any information or comments received from the public in connection with the proposed rule. The Council shall limit its review of proposed rules to questions regarding anticompetitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by BHEC only for anti-competitive impacts, administrative consistency and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. The words “must also” implies that the authority of BHEC to review member board rules is broader than statutorily allowed. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

CONTACTS

Will Francis, Executive Director

National Association of Social Workers – Texas Chapter

(512) 474-1454

wfrancis.naswtx@socialworkers.org

Tris Castaneda

Texas Association for Marriage and Family Therapy

(512) 320-9933

tcastaneda@longbow-partners.com

Jan Friese, Executive Director

Texas Counseling Association

(512) 472-3403

Jan@txca.org

Jessica Magee, Executive Director

Texas Psychological Association

(512) 528-8400

jessica@texaspsyc.org

Mark Hanna

Texas Society for Clinical Social Work

(512) 477-6200

mhanna@markjhanna.com



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jodie Elder <jodie_elder@hotmail.com>

Fri, May 22, 2020 at 11:59 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To the Behavioral Health Executive Council:

I respectfully submit the attached public comment on the proposed rules published in the April 24, 2020 issue of the Texas Register.

Sincerely,

Jodie Elder

Jodie Elder, PhD, LPC-S, LMFT
Public Policy Committee Co-Chair, Texas Counseling Association
TCA Liaison to the Texas State Board of Examiners of Marriage and Family Therapists

**Comments on BHEC Proposed Rules_04.24.20.docx**

18K

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:58 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]

**Comments on BHEC Proposed Rules_04.24.20.docx**

18K

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.6 Limitations on Number of Examination Attempts

~~(a) An applicant may take an examination administered or required by the Council no more than three times. Failure to pass an examination subject to this rule within three attempts, will result in an automatic denial of an application. The number of examination attempts allowed for applicants will be determined by the member board authorized to set those requirements.~~

Rationale: The examination required for each specific licensure are created using independent norming groups and have varied difficulty levels and expected pass rates. Consequently, each independent licensing board should retain the right to set rules regarding the number of times

licensees are allowed to sit for the exams before they are denied application and therefore entrance into the field.

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(f)~~ (f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out of state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comment on Proposed Rules

2 messages

Harris, Helen <Helen_Harris@baylor.edu>

Sat, May 23, 2020 at 2:22 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Helen Harris and I am a licensed social worker, LCSW-S, #9514. I am a social work educator at the Garland School of Social Work/Baylor University.

Thank you for the opportunity to respond with comments specific to the Behavioral health Executive Council (BHEC) draft rules. This board and these rules are important to the effective and efficient provision of a social work workforce in Texas.

I have reviewed the draft carefully and have several comments/questions and recommendations and appreciate your willingness to consider these.

1. In times of disaster like we currently experience with COVID-19, is important that licensed social workers from other states be able to quickly receive emergency license to practice.
2. Here are my comments on specific parts of the proposed law with page number and section.

- Does the rotational nature of board member selection mean that there will be years without a social worker on the board?
- If the council/board decides on the qualifications for the Executive Director, might that impact the discipline(s) that are elevated or ignored for Executive Director qualifications?
- 881 Sick leave pool....why are more procedures needed than in the Government Code and Employees Retirement System of Texas etc. p. 15
- 882.2. Requires a transcript from the accredited institution....directly from the institution.
Current students can take the exam in their last semester of work. Does this eliminate that? P. 21
- p. 21 #5...SAVE...is this about making sure immigrants aren't getting any entitlements? Why would this be important if they have been students and may have needed help?
- Currently application for licensure is the ticket to taking the exam. This says you need exam results prior to applying for licensure. How does that work with ASWB? P. 21
- p. 23. 882.6. Previous licensure rules included provision for the rare student who is unable to pass the exam after three tries because of disabilities related to testing but who meets all other requirements and demonstrates promise as a practitioner. The provision was application to practice for several years under the close supervision of

a licensed practitioner who oversees the practice and at the end of the provisional time makes a recommendation regarding the candidate's licensure. In my 40 years of practice I have only worked with one graduate/practitioner who needed this provision but was able to practice successfully under supervision and then with her own license having successfully met the supervised practice requirement. I recommend the council consider this option for the new law.

- p. 43. 882.50-1. Random audits. Each month 10% of the licensees will be selected by an automated process....I assume this means 10% of those due for renewal for that month but this is not clear and suggests that 10% of all licensees would be selected each month indicating that 120% would be audited each year....a burdensome and expensive process.

- p. 46: 882.61 Special Licensing Provisions for Military Spouses. Thank you. Excellent change.

- p. 49. 882.70. Emergency Temporary License

The delay in licensing has been substantial in past years and an emergency temporary license has been available to those waiting for the state to process applications...particularly for those who need a license to secure or retain a job and whose licenses are held up through no fault of their own. I recommend that option for six month emergency temporary license be included.

Thank you again for the opportunity to respond.

Helen Harris

Helen Harris, Ed.D., LCSW

Associate Professor

Diana R. Garland School of Social Work

Baylor University

One Bear Place #97320

Waco, Texas 76798

(254) 710-4431

Helen_Harris@baylor.edu

She/her/hers

"Education is not the filling of a pail, but the lighting of a fire." – WB Yeats

"Our ability to reach unity in diversity will be the beauty and the test of our civilization" Ghandi

883.2 Initial License Renewal Dates

Jefferson Thomas



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §883.2 Initial License Renewal Dates

1 message

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Mon, May 11, 2020 at 1:42 PM

For clarify and to avoid conflict with member board provisions, please consider change to §883.2 Initial License Renewal Dates as indicated below:

§883.2 Initial License Renewal Dates

- (a) The license expiration date for a license issued by this agency is the last day of the licensee's birth month.
- (b) The initial renewal date for a license issued or reinstated by this agency shall be set as follows:
 - (1) A license issued or reinstated within 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of two years from the date of issuance or reinstatement.
 - (2) A license issued or reinstated more than 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of one year from the date of issuance or reinstatement.
 - (3) An LPC Intern license, a social worker's temporary license, or an LMFT Associate license shall be set with a renewal or expiration date in accordance with rules in Texas Administrative Code, Chapters 681, 781, or 801, respectively, as specified by the appropriate member board.
- (c) Following the initial renewal dates set forth in subsection (b) of this section, a license shall become subject to the standard renewal schedule and requirements.
- (d) Notwithstanding subsection (b) of this section, for individuals with more than one license from a member board, the initial renewal date for a newly issued or reinstated license shall coincide with the individual's existing license renewal date.

MFT board held meeting by telephone on April 17, 2020 and proposed amendments to 22 TAC §801.202 LMFT Associate License to align with Council rules such that:

§801.202 LMFT Associate License

- (a) The initial LMFT Associate license will be issued for a period of 24 months and may be renewed biennially for a period not to exceed a total of 72 months.
- (b) An LMFT Associate who has held the LMFT Associate license for 72 months and submitted documentation to the Council board to satisfy all minimum requirements for LMFT licensure, except the 500-hour 750-hour requirement set in §801.142(1)(B) of this title (relating to Supervised Clinical Experience Requirements and Conditions) and requiring at least 500 750 hours of direct clinical services to couples or families, may renew his or her LMFT Associate license only once more (not exceeding 96 months of licensure as an LMFT Associate).
- (c) An LMFT Associate who has held the LMFT Associate license for 72 months (or 96 months if subsection (b) of this section applies) and has not met the minimum requirements for LMFT licensure, may not renew but must reapply for the LMFT Associate license, meeting all current application requirements and passing the national licensure examination no more than six months before the date the application is received.

Current LPC board rules include

§681.91 LPC Intern License

- (g) An LPC Intern license will expire 60 months from the date of issuance.

Current SW board rules include

§781.411 Temporary License

- (c) The temporary license is valid until the licensee attempts the appropriate examination or the end of the six-month issuance of the temporary license

884.1 Timeliness of Complaints

Jefferson Thomas



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for §884.1 Timeliness of Complaints

2 messages

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Tue, May 12, 2020 at 7:51 AM

For fairness to allow child victims as much time as possible to process experience and file complaint and for consistency with record retention rules, please consider change to §884.1 Timeliness of Complaints as indicated in (a) below. There should be no limit to complaints alleging sexual misconduct. Although the respondent is no longer required to keep records after a certain period of time, the complainant or witness(es) may have records or testimony to allow an investigation to move forward, please consider deletion of subsection (b).

§884.1 Timeliness of Complaints

(a) A complaint not involving sexual misconduct will be considered timely if brought within five years of the date of the termination of professional services or within five years of the patient, client or recipient of services reaching the age of majority, whichever is greater.

~~[(b) A complaint alleging sexual misconduct will be considered timely if brought within seven years after the date of termination of services or within five years of the patient, client or recipient of services reaching the age of majority, whichever is greater.]~~

(b)(e) A complaint arising out of a matter required to be reported to the Council pursuant to rule §884.32 of this chapter, will be considered timely if brought within five years of the date the matter is reported to the Council. Limitations shall not begin to run for any such complaint until the matter is reported in accordance with Council rules.

On April 17, 2020, the Texas State Board of Examiners of Marriage and Family Therapists voted to recommend the following changes to record retention rules:

§801.48 Record Keeping, Confidentiality, Release of Records, and Required Reporting

(e) A licensee must keep accurate records of therapeutic services, including dates of services, types of services, progress or case notes and billing information for a minimum of seven[six] years after termination of services or [for an adult client and] five years after a client reaches the age of majority [beyond the age of 18 for a minor], whichever is greater [longer].

Current MFT Board rules impose no limit to receiving complaint alleging sexual misconduct:

§801.296 Complaint Procedures

(b) Allegations not involving violations of §801.45 of this title (relating to Sexual Misconduct) must be filed within 5 years of the date of termination of professional services or within 5 years of a minor client's 18th birthday, whichever is later.

Current SW Board rules impose no limit to receiving complaint alleging sexual misconduct:

§781.603 Complaint Procedures

(b) Allegations not involving violations of §781.205 of this title (relating to Sexual Misconduct) must be filed within five years of the date of termination of professional services or within five years of a minor client's 18th birthday, whichever is later.

Current LPC Board rules impose no limit to receiving complaint alleging sexual misconduct:

§681.161 Complaint Procedures

(b) Allegations not involving violations of §681.42 of this title (relating to Sexual Misconduct) must be filed within 5 years of the date of termination of professional services or within 5 years of a minor client's 18th birthday, whichever is later.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 12, 2020 at 9:04 AM

Brenda Skiff
Public Information Officer/
Legal Assistant

884.3 Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations

Coalition for Family Court Reform

Jefferson Thomas

Mary Alvarez, Ph.D.

Aaron Robb, Ph.D., LPC-S



Brenda Skiff <brenda@tsbep.state.tx.us>

Oppose Special Requirements for Forensic Complaints

2 messages

Coalition for Family Court Reform <txfamilycourtreform@gmail.com>

Sat, May 2, 2020 at 12:04 PM

To: txgov@dir.texas.gov, greg.abbott@gov.texas.gov, luis.saenz@gov.texas.gov, jeff.oldham@gov.texas.gov, Chris.smith@gov.texas.gov

Cc: Darrel Spinks <Executive.Director@tsbep.texas.gov>, DrFletcher@fletcherphd.com, rpalomares@twu.edu, Open.Records@tsbep.texas.gov, gloria@sachristiandental.org

May 1, 2020

Office of Texas Governor Greg Abbott

Subject: Oppose "Special Requirements for Complaints Alleging Violations Related to Court-Ordered Evaluations"

Dear Governor Abbott and Staff,

This letter serves as public comments on the proposed rules "Special Requirements for Complaints Alleging Violations Related to Court-Ordered Evaluations" (Proposed Rules, April 24, 2020, 45 Texas Register) and is a supplement to the March 9, 2020 letter (attached).

Far too often, children are wrongfully removed from parents due to court experts' misconduct and unreliable findings. Parents must pay tens and hundreds of thousands of dollars, and spend years that they will never get back with their children to overcome the damage done, clear their good names and hopefully, reunite with their children.

We oppose the proposed rules because they do not ensure the protection and safety of Texas children and families.

The proposal only restricts families' ability to report expert misconduct. It gives agency staff many opportunities to dismiss reports of misconduct when they are received and before ever starting an investigation.

Staff must actually investigate reports before determining if they are valid or not. If agencies dismiss reports without investigating them, valid complaints will be ignored, and families will be harmed by ignored reports of misconduct.

The proposed rules do nothing to prevent misconduct so children and families aren't harmed in the first place. Though citizens have repeatedly requested stricter regulations and stronger enforcement, the rules provide no requirements for forensic evaluators who report to courts. The proposal only restricts reporting about these practitioners after damage is done.

A citizen advisory board must be formed to help develop effective solutions because protecting the *public's* safety must include input from the *public*. For over a year, we asked TSBEP to form a citizen task force, yet the agency has not done so.

The proposal ties investigation to litigation, which are not contingent upon one another. When families receive services from forensic evaluators, they must have an unrestricted right to report misconduct regardless of litigation.

Due to coronavirus, we ask that these proposed rules be placed on hold until the lockdown is lifted across Texas, and citizens have ample opportunity to review and participate.

We respectfully request that you revise the proposed rules to include the following input.

1. Regulate and Enforce Forensic Licensees

The most critical issue is to further regulate and strongly enforce forensic licensees because they influence judicial decisions about children and families. These practitioners must comply with more rigorous, specialized rules and requirements.

Darrel Spinks, TBHEC and TSBEP director, explained how the proposal shifts the burden to the public and protects licensees from complaints. *"We would be getting the complaint in. At this point, we wouldn't send notice to the licensee because that's one of the things we've, that's one, that's one of the rubs that we're trying to avoid is having to notify the licensee, have them engage counsel, possibly jeopardize malpractice insurance if it's a complaint that's baseless or is going to be dismissed. So if we can require, if we can, require the complainant to produce this to us if it was produced to them."* (Aug 2019 TSBEP board meeting)

To protect children and families, TBHEC and its member agencies must hire investigative staff who are experts in both the profession and law. TBHEC must also adopt and enforce special rules on forensic licensees, including but not limited to:

- a. Employ best practices, such as valid and reliable scientific methods.
- b. Comply with the most current edition of DSM and ethical codes.
- c. Must not disregard the findings of other licensed professionals involved in the case.
- d. Must not require clients to sign agreements giving up their rights.
- e. See also our Mar, 9, 2020 letter in which we included Dr. Edward Silverman's suggestions. TSBEP board member Fletcher praised Dr. Edward Silverman for his recommendations on stricter regulations for licensees like himself.

The petition below, signed by hundreds of Texans and presented to TSBEP over one year ago, also outlines requirements for forensic licensees.

<https://www.change.org/p/investigation-into-forensic-custody-evaluator-dr-alissa-sherry-and-legal-consensus>

2. Increase Agency Transparency and Accountability

TBHEC must improve transparency and accountability to protect families from unscrupulous and untrained licensees, including forming a citizen advisory board. There's little to no accountability currently because these activities are not disclosed in any meaningful way.

- a. Provide substantive information about investigations and enforcement. TSBEP refuses to release information, even to complainants. *"No. The complaint process is confidential and not subject to disclosure."* (Alfonso Fernandez <enforcement.manager@tsbep.state.tx.us>, Mar 17, 2020 email)
- b. Provide investigative records to the complainant within ten (10) business days upon request.
- c. Provide complainants the reason(s) for dismissal and allow complainants at least 180 days to respond and/or resolve any issues.
- d. Establish an appeal process for complaints. Per Spinks, *"The dismissal of a complaint may not be appealed by a complainant or a third-party."* (Darrel Spinks <Executive.Director@tsbep.texas.gov>, Jun 23, 2019 email)
- e. Track, analyze, and disclose patterns of misconduct reported against a single licensee in multiple complaints. (TSBEP has been investigating a single forensic psychologist in countless complaints since at least 2015. Yet, the agency has not taken any disciplinary actions, nor will it disclose any information about this matter. TSBEP also refuses to investigate group complaints against a single psychologist.)
- f. Utilize data that it currently collects to improve licensee services and prevent misconduct.
- g. Establish a mechanism for citizens to report misconduct that does not place the complainant at risk of retaliation from the licensee.

3. Disclose the Proposed Rules and Expand Public Input

The public has been given limited opportunity to review and comment. At TSBEP quarterly board meetings, the proposal was discussed by staff and board members, but was not provided to the public. It is unknown if TBHEC

presented this information in a public meeting and allowed input. Now, the coronavirus has significantly hindered involvement.

A citizen advisory board would allow critical public input to develop effective, comprehensive solutions.

Spinks is the director of **both** TSBEP and TBHEC. In his dual role, he 'envisioned sliding' this proposal to TBHEC after TSBEP drafted it. Spinks stated, "*Candidly, what I'm kind of envisioning is, is y'all do the work here and (laughs) we're going to **slide it over to the council** and go 'Here. This, this is what they came up with and I think this is a pretty good idea to how to handle it across the board'.*" (Aug 2019 board meeting)

4. **Burdensome on Complainants**

The proposal is overly-burdensome to complainants who may be laypeople, may lack documentation through no fault of their own, or may lack the resources to meet the requirements of this proposal—all of which will lead to dismissals and ultimately, misconduct going undetected.

Spinks stated that the proposal only requires substantial, not strict, compliance. However, the proposed rules include many avenues for staff to automatically dismiss complaints when received if criteria are not met. TSBEP board members discussed their support of the criteria as 'options' for the public.

Board member Fletcher stated, we "... can determine who are the people that are the good evaluators and who are the people that are the bad evaluators, if I can get that dirty about it. That, um, because we don't want people who aren't doing what they're expected according to board rules out there doing it ..." Another board member stated, "*If we get this information, it gives us the ammo that the board needs to go take out a child custody evaluator who is doing a bad job.*"

The TSBEP board's intent is to identify and remove unethical licensees. But, these rules undermine this goal since they only restrict complainants.

5. **Evaluators Must Release Records**

TSBEP does not enforce current rules which require licensees to release records. One such psychologist refuses to release records to numerous former clients. TSBEP refuses to take any action.

Without records, citizens are hindered from submitting thorough complaints. Reports of misconduct may have been, and continue to be, wrongfully dismissed on this basis.

Multiple TSBEP board members raised concerns about licensees who do not release records when under investigation: there are 'plenty' of licensees who 'go radio silent' and are 'uncooperative.' The board does not want complaints to be dismissed because a licensee is 'purposefully stonewalling' the investigation.

A board member stated, "*Just thinking about the legitimate, bad evaluators. A legitimate, bad evaluator may not be that helpful or compliant with producing information. And I just want to make sure that when you guys get that, if it's missing something that staff has the latitude to say yes let's go forward.*" (Aug 2019 TSBEP board meeting)

6. **Prohibit TBHEC from Dismissals if Insufficient Evidence for Hearing**

It is unclear how staff can make a determination that there's insufficient evidence for court purposes: the agency is not a court of law and staff are not judges. The agency may have wrongfully dismissed valid complaints on this basis.

TSBEP informs the public that it dismisses reports of misconduct "if there is not sufficient evidence to withstand a court hearing." Yet, the agency also instructs complainants to "state in simple, narrative language why you think the professional violated the Psychologists' Licensing Act or Board rules." (www.tsbep.texas.gov/how-to-file-a-complaint-enforcement)

7. **Professional Second Opinions and Reviews**

The TSBEP board discussed disqualifying certain second opinions and reviews from being considered during investigation. Complainants should be allowed to include relevant second opinions and reviews, and such information should not be disqualified.

Other licensed professionals (e.g., counselors, therapists, social workers, psychiatrists, doctors, etc.) can have extensive knowledge about the issues addressed in the complaint. Thus, these professionals can discern potential misconduct to investigate. Further, TBHEC now oversees all mental health licensing agencies which license professionals from other disciplines.

8. **Analyze and Develop Comprehensive Solutions**

A citizen advisory board must be formed to advise on developing effective solutions to prevent children from being wrongfully removed and families being harmed due to poor forensic evaluations. Judges, families and other professionals rely heavily on these experts' services; if they are inaccurate or unsound, it can have disastrous and costly effects.

TBHEC, along with a citizen advisory board, must consider the myriad factors present in these situations, and then develop comprehensive, effective solutions. A one-size-fits-all approach is inadequate because each complaint has a unique set of circumstances.

Factors that must be considered include, but are not limited to:

- a. Duration and state of litigation. Once a parent or child receives services, that individual must have an unrestricted right to report misconduct regardless of litigation.
- b. Involvement of attorney(s) and other licensed professionals
- c. Manner in which the expert's services were engaged (e.g., court order, contract, etc.)
- d. Extent and nature of the expert's services (e.g., testimony with or without evaluation, which family members were evaluated, methodologies used, etc.)

We, along with countless families across Texas, request that you give careful consideration to these comments to **ensure the protection and safety of Texas children and families**.

We invite you to contact us, and look forward to hearing from you. Thank you for your consideration.

Sincerely,

Cynthia Chebultz, Stephanie Gipson, and Barry Lynn and Tammy Parker
Coalition for Family Court Reform

cc: TBHEC, TSBE (Note: We are not certain how to contact TBHEC since no public information is available at this time. We are copying Mr. Spinks as Director of TBHEC and TSBE, and Drs. Fletcher and Palomares as lead TSBE board members on the proposed rules.)

On Mon, Mar 9, 2020 at 11:21 AM Coalition for Family Court Reform <txfamilycourtreform@gmail.com> wrote:

March 9, 2020

Office of Texas Governor Greg Abbott
P.O. Box 12428
Austin, Texas 78711-2428
via email

Subject: **Special Requirements for Complaints Alleging Violations based on Court-Ordered Evaluations**

Dear Governor Abbott and Staff,

We understand your office is working closely with TBHEC and TSBEP to recommend requirements for investigating licensing complaints involving forensic services in family law. ***Can you please provide us an update on its current status at the Governor's office?***

We are a group of parents from across Texas who are concerned about those (hopefully, few) forensic practitioners who are hired guns providing scientifically unsound, biased opinions under the guise of objectivity and scientific reliability. Courts and citizens rely heavily on such expert services; when they are flawed, children and families are inevitably hurt. There are over **500 signatures on a petition** which discusses these issues.

Petition re Forensic Services in Family Court

We are aware that a number of complaints against one such practitioner were dismissed by TSBEP, and more are being investigated. Given the inclusion of other experts' reviews and supporting documentation, we question whether complaints may have been wrongfully dismissed.

We understand the agency's efforts to distinguish between legitimate complaints and others, which, after all, is the goal of all investigations and is not unique to complaints such as ours. Great care must be taken in these types of complaints due to the intersection between both family law and psychology. We appreciate everyone's efforts to address this issue, and ask that you, TBHEC and TSBEP consider the following input.

We also continue to ask that a **citizen task force**, comprised of parents like us, be formed. A task force would provide valuable public input on this issue. When citizens are able, they attend TSBEP meetings. However, those who do not live in the Austin area and/or have obligations during the work day are unable to attend, which hinders public input.

1. Do not prohibit complaints from being submitted until after final court order, case dismissal, or judgment

Investigation and determining the merits of complaints are **entirely independent of family litigation** and should not be contingent upon it. Once a client receives services from a psychologist, that client should have an **unrestricted ability to submit a complaint**.

Waiting until after the case is closed could limit the risk of unethical practitioners (who are still involved in cases) from retaliating against a complainant. However, when family court cases drag on for years (which they often do), such a prohibition would **deter citizens** from reporting misconduct. Thus, unethical professionals would continue to pose a risk to the public.

2. Increase regulation of forensic practitioners to reduce risk to public and reduce complaints

As a Texas forensic psychologist recommended to TSBEP, state law should strengthen regulations for forensic psychologists.

- mandate court competencies
- require specialized continuing education
- mandate adherence to professional standards such as those referenced by American Academy of Forensic Psychology (AAFP), American Psychological Association (APA), and Association of Family and Conciliation

Courts (AFCC)

- require evaluators to record all witness interviews, including parents and children
- remove quasi-immunity, and more.

Forensic practitioners must release records upon request by the clients/parents, which is currently not being enforced though it appears state law exists. Prohibit forensic practitioners from requiring clients to sign agreements giving up their rights to, for example, complain or sue.

3. No-cost and layperson-friendly complaint process

Each complaint should be ***thoroughly investigated on its merits***, and not on the degree of professionalism with which it was prepared. Requiring complainants to submit documentation from other professionals (e.g., lawyers, other practitioners) ***deters the public*** from reporting misconduct. It should, instead, remain an option for complainants to include supporting documentation when available. Pro se litigants do not have attorneys.

When considering costs associated with complaints, bear in mind the following. In known complaints, parents have paid from a few thousand dollars to tens of thousands of dollars, regardless of the competency and quality of the services. If parents do not or can not pay for flawed psychological services, unethical psychologists seek court enforcement and thus, parents face fines, jail time, and more.

Unethical psychologists abuse this power; engage in dual roles; fabricate problems and psychological diagnoses; and make invalid recommendations, all of which increases their profits. Client parents must pay the fees set by psychologists, which can be exorbitant and exceed agreed-upon amounts, and again, regardless of the competency and quality of services rendered.

4. Shorten the duration of investigations

While we understand that such complaints are complex and time-consuming, the duration of investigation should be improved. Investigations should be conducted by experts in both psychology and family law. We do not wish the duration of investigation to be expedited by sacrificing the quality of investigations, however.

5. Increase transparency of investigations

As a public activity, investigations should be made available to the public. Further, we ask that TSBEP ***disclose to complainants the basis for dismissals***, and allow complainants to ***respond and submit further documentation***.

It is common knowledge that expert opinions can be bought for litigation purposes. As one TSBEP board member remarked during the August 2019 board meeting, "You can usually find an expert who will write the opinion you want." Unwitting citizens, on the other hand, trust the profession as well as the judicial process. They are unaware that they are retaining a hired gun disguised as a competent, objective psychologist.

It would be helpful to the public to be aware of investigations and dismissed complaints against a psychologist. Similar information is already made available to the public. For instance, family court proceedings are open to the public prior to judgments. Currently, the public is only made aware after disciplinary actions are taken.

While we understand that psychologists may oppose such a measure, we hope to reach a compromise such as a disclosure like this: *"The following licensees were investigated by TSBEP but no violations were found and no disciplinary actions were taken. These licensees remain in good standing with TSBEP."* And, *"The following licensees are currently under investigation by TSBEP and, until such time as investigation has been completed and a decision has been reached, these licensees remain in good standing with TSBEP."*

In closing, there is common ground between psychologists and the public. We all want to make the most well-informed, objective decisions we can about families and children, so psychology should not be used as fodder for litigation. Psychologists wish to preserve the integrity of their services as much as the public does.

We invite you to contact us, and look forward to hearing from you. Thank you for your consideration.

Cindy Chebultz

Stephanie Gipson, BSW, MPA

Barry Lynn and Tammy Parker

Coalition for Family Court Reform

cc: TBHEC, TSBEP

(Note: We are not certain how to contact TBHEC since no public information is available at this time. We are copying Mr. Spinks as Director of TBHEC &/or TSBEP, and Drs. Fletcher and Palomares as the lead TSBEP board members presenting these policy recommendations.)

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Sat, May 2, 2020 at 11:16 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §884.3 Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations

2 messages

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Tue, May 12, 2020 at 8:32 AM

Subsections (d) through (f) are overly burdensome on the complainant, especially considering that many of the records required to be submitted by the complainant are required by the LPC, MFT and SW boards to be retained in licensee's records. Please consider deleting subsections (d) through (f) as indicated below.

§884.3 Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations

~~(d) A complaint subject to this rule must include the following documentation or information:~~

- ~~—(1) A copy of the court order appointing the licensee to conduct the evaluation, or alternatively, a transcript or excerpt therefrom or written statement from an attorney of record in the case reflecting the licensee's appointment;~~
- ~~—(2) A copy of the licensee's expert report, or a statement that no such report was produced or provided;~~
- ~~—(3) A copy of any judgment, final order, or dismissal entered by the trial court; and~~
- ~~—(4) A copy of any documents provided by the licensee describing the costs of services, the nature of the services provided, as well as any limitations associated with those services, or a statement that no such documents were provided.~~

~~(e) A complaint that does not substantially comply with subsection (d) of this section, shall be dismissed by agency staff. A complaint may be held open for no more than 30 days following notice to the complainant regarding any such deficiency, after which, agency staff shall dismiss the complaint if the deficiency is not cured.~~

~~(f) A complaint subject to this rule shall be dismissed unless the complainant can show:~~

- ~~—(1) The licensee was disqualified or struck as an expert witness by the trial court;~~
- ~~—(2) The licensee's opinion or inferences (i.e. testimony or report) complained of were ruled inadmissible by the trial court;~~
- ~~—(3) A curriculum vitae and written report by an expert that provides a fair summary of the expert's opinions regarding the applicable law governing the licensee's expert opinion or report (i.e. standard of care) and the manner in which the licensee failed to meet the requirements of the applicable law. The report must come from an expert qualified to render an expert opinion under Texas law on the relevant subject;~~
- ~~—(4) A letter from an attorney licensed to practice law in Texas setting forth the applicable law governing the licensee's expert opinion or report and reflecting an opinion as to the manner in which the licensee failed to meet the requirements of the applicable law; or~~
- ~~—(5) The agency would be likely to prevail at a hearing before SOAH based upon the information provided.~~

Current LPC rules requiring certain records:

§681.41 General Ethical Requirements

(e) Regardless of setting, a licensee must provide counseling only in the context of a professional relationship. Prior to providing services, a licensee must obtain from an individual a signed informed consent, signed written receipt of information, or in the case of involuntary treatment a copy of the appropriate court order, including the following:

- (1) fees and arrangements for payment;
 - (2) counseling purposes, goals, and techniques;
 - (3) any restrictions placed on the license by the board;
 - (4) the limits on confidentiality;
 - (5) any intent of the licensee to use another individual to provide counseling treatment intervention to the client; and
 - (6) supervision of the licensee by another licensed health care professional including the name, address, contact information and qualifications of the supervisor;
 - (7) the name, address and telephone number of the board for the purpose of reporting violations of the Act or this chapter; and
 - (8) the established plan for the custody and control of the client's mental health records in the event of the licensee's death or incapacity, or the termination of the licensee's counseling practice.
- (f) A licensee must inform the client in writing of any changes to the items in subsection (e) of this section prior to initiating the change.
- (g) For each client, a licensee must keep accurate records of:
- (1) signed informed consent, signed written receipt of information, or, in the case of involuntary treatment, a copy

of the appropriate court order

- (2) intake assessment;
- (3) dates of counseling treatment intervention;
- (4) principal treatment methods;
- (5) progress notes;
- (6) treatment plan; and
- (7) billing information.

(t) **Billing Requirements.**

(1) A licensee must bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual written agreement.

(2) Relationships between a licensee and any other person used by the licensee to provide services to a client must be so reflected on billing documents.

(3) Pursuant to Texas Health and Safety Code Chapter 611, on the written request of a client, a client's guardian, or a client's parent (sole managing, joint managing or possessory conservator) if the client is a minor, a licensee must provide, in plain language, a written explanation of the types of treatment and charges for counseling treatment intervention previously made on a bill or statement for the client. This requirement applies even if the charges are to be paid by a third party.

(4) A licensee may not knowingly overcharge a client.

(5) With the exception of an unkept appointment, a licensee may not submit to a client or a third party payor a bill for counseling treatment intervention the licensee knows or should know is improper, unreasonable, or unnecessary.

(v) Prior to the commencement of counseling services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order as well as any applicable part of the divorce decree. A licensee must maintain these documents in the client's record and abide by the documents at all times. When federal or state statutes provide an exemption to secure consent of a parent or guardian prior to providing services to a minor, a licensee must follow the protocol set forth in such federal or state statutes.

Current MFT rules requiring certain records:

§801.44 Relationships with Clients

(b) A licensee must make known in writing to a prospective client the important aspects of the professional relationship, including the licensee's status as an LMFT or LMFT Associate, any probationary status or other restrictions placed on the licensee by the board, office procedures, after-hours coverage, fees, and arrangements for payment (which might affect the client's decision to enter into the relationship).

(c) A licensee must obtain an appropriate consent for treatment before providing professional services. A licensee must make reasonable efforts to determine whether the conservatorship, guardianship, or parental rights of the client have been modified by a court. Before the commencement of therapy services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order in a suit affecting the parent-child relationship. A licensee must maintain these documents in the client's record. When federal or state statutes provide an exemption to secure consent of a parent or guardian before providing services to a minor, a licensee must follow the protocol set forth in such federal or state statutes.

(d) A licensee must make known in writing to a prospective client the confidential nature of the client's disclosures and the clinical record, including the legal limitations of the confidentiality of the mental health record and information.

(m) A licensee may not bill clients or third parties for services not actually rendered or as agreed to in writing.

Current SW rules requiring certain records:

§781.201 Code of Conduct

(a) A social worker must observe and comply with the code of conduct and standards of practice set forth in this subchapter. Any violation of the code of conduct or standards of practice will constitute unethical conduct or conduct that discredits or tends to discredit the profession of social work and is grounds for disciplinary action.

(6) A social worker shall provide the client with a clear description of services, schedules, fees and billing at the initiation of services.

§781.203 General Standards of Practice

This section establishes standards of professional conduct required of a social worker. The licensee, following applicable statutes:

(7) shall ensure that, both before services commence and as services progress, the client knows the licensee's qualifications and any intent to delegate service provision; any restrictions the board has placed on the licensee's license; the limits on confidentiality and privacy; and applicable fees and payment arrangements;

(9) shall ensure that the client or a legally authorized person representing the client has signed a consent for services, when appropriate. Prior to commencement of social work services with a minor client who is named in a Suit Affecting Parent Child Relationship (SAPCR), the licensee shall ensure that all legally authorized persons representing the client have signed a consent for services, if applicable. A licensee shall maintain these documents in the client's record.

§781.204 Relationships with Clients

(a) A social worker shall inform in writing a prospective client about the nature of the professional relationship, which can include but is not limited to office procedures, after-hours coverage, services provided, fees, and arrangements for payment.

(f) A social worker shall keep accurate records of services to include, but not be limited to, dates of services, types of services, progress or case notes and billing information for a minimum of five years for an adult client and five years beyond the age of 18 years of age for a minor, or in compliance with applicable laws or professional standards. If the foregoing provision conflicts with the standards, requirements, or procedures for records generated in the course and scope of rendering services as a social worker, either directly or indirectly, for an educational institution, or a federal, state, or local governmental entity or political subdivision, the foregoing provision does not apply.

(g) A social worker shall bill clients or third parties for only those services actually rendered or as agreed to by mutual written understanding.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 12, 2020 at 9:05 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Proposed rules

2 messages

Mary Rivas <txmary95@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 13, 2020 at 5:01 PM

Good Afternoon:

I am writing to comment on proposed rule 884.3(f)(4) that reads "*A letter from an attorney licensed to practice law in Texas setting forth the applicable law governing the licensee's expert opinion or report and reflecting an opinion as to the manner in which the licensee failed to meet the requirements of the applicable law; or...*"

I am very concerned about allowing attorneys to become involved in licensing regulation issues. A custody evaluation often contains psychological testing for which attorneys have no expertise unless they are also licensed as a psychologist in Texas and allowing an attorney to opine to the board how a psychologist did or didn't follow the family code as it relates to psychology and psychological testings is giving attorneys significant, yet unearned power in the livelihood of a psychologist.

Additionally, in my experience as a custody evaluator, allowing attorneys to submit an opinion to the board against a psychologist will provide attorneys the opportunity to use custody evaluators as the mechanism or tool in their legal strategies when they file for a modification with the court on behalf of the complainant. At the time of final judgment, the role of the custody evaluator is complete, but an attorney ready to file a modification for a parent can serve as the person to write the letter to the board in the form of a complaint, as well as the attorney for the complainant, thereby drawing in the custody evaluator into a new case.

I see nothing positive by allowing attorneys to weigh in on matters related to psychology. The board is capable of investigating the complaint and all applicable laws without the input from attorneys.

Dr. Mary Alvarez, PhD
Licensed Psychologist
dralvarez@drmaryalvarez.com
dralvarez@resetting-the-family.com

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 14, 2020 at 7:51 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Rules comments

2 messages

Aaron Robb <aaron@texasounseling.org>
To: open.records@tsbep.texas.gov

Fri, May 22, 2020 at 8:54 PM

Please see attached

--

Aaron Robb, Ph.D., LPC-S
Forensic Counseling Services
<http://www.texasounseling.org>
Mailing Address: 2831 Eldorado Pkwy., Ste. 103-377, Frisco, TX 75033
Phone: 972-360-7437; Fax: 940-343-2601

"You can't go back and make a new start, but you can start right now and make a brand new ending." James Sherman
(commonly mis-attributed to C. S. Lewis)

This e-mail and any attachments contain information from the office of Aaron Robb, Ph.D., LPC-S, and are intended solely for the use of the named recipients. Any dissemination of this e-mail is strictly prohibited. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mails or attachments.

 **BHEC rules comments 2020-05-22.pdf**
96K

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:57 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

 **BHEC rules comments 2020-05-22.pdf**
96K

Aaron Robb, Ph.D., LPC-S
2831 Eldorado Parkway, Suite 103-377
Frisco, TX 75033

5/22/2020

open.records@tsbep.texas.gov

Dear Texas Behavioral Health Executive Council staff,

I am writing to provide feedback on the recently proposed rule. By way of background, I am a Licensed as a Professional Counselor, although in addition to my Master's in Counseling I also hold a Doctorate in Social Work. Having studied in multiple professional disciplines I appreciate the challenge that BHEC has in working with member boards of different backgrounds. After beginning my career with Child Protective Services I transitioned to working for Dallas County Family Court Services providing child custody evaluations and other services. Although I have transitioned from public service to private practice, over the last two decades I have focused on forensic mental health services. In that time I have published articles in academic and professional journals and amongst my academic work I serve on the Editorial Boards of the journal *Family Court Review* and the *Journal of Family Trauma, Child Custody & Child Development*. Locally, I have worked with the Family Law Foundation to help draft and pass various pieces of legislation that impact Texas families, including various revisions of Section 107, Subchapter D of the Texas Family Code regarding child custody and adoption evaluations. Thanks to more than a decade of work by the family law and mental health communities, Texas has some of the most rigorous laws in the nation regarding to professional practices and requirements for evaluations.

I appreciate this opportunity to share my thoughts and feedback on the recommended changes. I have outlined specific rules below for ease of review. I want to lead off by clearly noting that I support the passage of these rules, and my feedback is intended to build constructively from what has been proposed. It is critical to both licensees and the public that these initial rules be passed in a timely manner; hopefully my feedback is helpful as future iterations develop, refine, and improve regulations for behavioral health professionals in Texas.

From the Texas Register, April 24,2020 issue:

§882.1 "Application process" subsection (3) proposes standards regarding application timeframes that give concern for arbitrary differences drawn between member board types. There appears to be no explanation in the proposed rules as to why one of the licensee types is given only 90 days to complete applications, where the other licensee types have one year. It appears best that there be a single administrative standard regarding application timeframes provides equitable treatment of licensees from all member boards.

§882.30 “Display of License” subsection (b) proposes different standards regarding licensees of different member boards. This again causes concern regarding disparate treatment without any apparent explanation in the proposed rules as to why two of the licensee types may meet this requirement through an alternative method, but the licensees of the other two member boards cannot. As with the issue noted above, it again appears best if there was a single administrative standard applicable toward all licensees.

§882.32. “Duty to Update Name and Address” subsection (a) appears to require a licensee to be responsible for ensuring adequate record keeping for the licensing boards and Executive Council. It has been my experience that member boards seem to struggle to track submissions and process administrative paperwork in a timely fashion. To more clearly reflect the apparent intent of this rule it should be modified for the last sentence to read “It is the responsibility of the individual to provide agency the correct contact information for that individual.” A licensee can demonstrate they have provided information, they cannot make sure the agency does the right thing with it.

§882.36. “Compliance with State and Federal Law” seems to omit Family Code Chapters 104 and 107, both of which have provisions applicable to licensees of all member boards. While such forensic services are rarer, all licensees should be required to comply with all laws of the State of Texas. I fear without specifically naming these Family Code sections BHEC may run the risk that this goal will not be enforceable.

§882.50. “Continuing Education and Audits” subsection (b)(1) causes some significant concerns. An audit each month of 10% of all licensees will mean that, across the course of a year, essentially every licensee will be sampled (statistically many will be sampled more than once, with an outside chance some will not be sampled at all). This seems likely to create an unnecessary burden. It appears one option would be for BHEC to instead require annual submission of continuing education information if the goal is truly to audit at such a level. It may be this section was intended to establish a random audit, in any given year, of 10% of all licensees which seems like a far more reasonable process, and a simple edit is required.

§884.3. “Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations” is a section that has been needed for some time and I am pleased to see this included. The proposed changes should be adopted, and I am hopeful that future updates to rules can go further in addressing the complex adversarial nature of working with court-involved clients in areas other than evaluative work.. That said, it also appears some of these rules set an overly-high bar in some circumstances for clients who have been harmed by licensees.

In this difficult task BHEC should be commended for taking this first step to protect the public by insuring that competent forensic mental health professionals will be available when needed by court-involved clients. Too often complaints are used as “preemptive attacks” against professionals not because they have committed a licensing violation but because the litigating client is attempting to gain some sort of strategic advantage in court. The cost of such a scorched

earth approach to litigation (in time, effort, and expense) drives many competent professionals to avoid any type of interaction with court-connected clients. This has the knock-on result of creating a shortage of well-trained professionals willing to take on forensic work, forcing some clients to seek out subpar providers and the subpar work they perform. In order to ensure the public has access to quality providers willing to work with court-connected clients I am hopeful in the future BHEC will expand these rules to apply to all licensees working under court appointment.

That said, I am also hopeful in the future BHEC will look at expanding the options, particularly under Subsection (f), for client complaints to be heard as I fear what has been proposed currently may be overly restrictive. As someone who has served as an expert witness in scores of hearings, including many cases reviewing the work of court-appointed evaluators, in my experience it is very rare to see a court disqualify or strike an expert after having appointed them. Even when the expert has blatantly failed to meet not just the standard of care, but basic requirements set out in the Family Code and court appointment order, this impacts the weight the court gives to the expert rather than resulting in disqualification. When courts permit an expert to correct a defect by supplementing a report (a common cure when there is a deficiency found) or otherwise mitigating their errors, this does not remove the expert's failure to meet their ethical duty to have performed a competent job the first time around.

At a minimum I believe the language found in proposed 884.5(a) regarding a court finding of violation or other deficiency by the licensee should be incorporated as one of the possible criteria under Subsection (f). This, and other future additions, should maintain a focus on the appropriate primary location for litigants to address issues with experts – the court where their case is being heard – while providing better options to protect the public when there is a true error worthy of a licensing complaint.

✓ §884.12 “Complaint Disposition” is section I believe should be modified to require that BHEC shall solicit input from its member boards, rather than “may” do so. §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. From my understanding, BHEC was not developed to have any authority related to standard of care or ethical standards, and I believe therefore must be required to consult with the member boards regarding such issues.

I again appreciate all your hard work and effort on behalf of the citizens of Texas and those of us licensed to serve them. Even if my suggested revisions are not immediately possible, I encourage BHEC to pass the rules as drafted and implement updates in a subsequent iterations.

Sincerely,

A handwritten signature in black ink that reads "Aaron Robb". The signature is fluid and cursive, with the first name "Aaron" and last name "Robb" clearly distinguishable.

Aaron Robb, Ph.D., LPC-S

884.12 Complaint Disposition

Katrina Daneshvar, MA
Kathleen Moore, LPC-S
Melissa Dilworth
Judy Jarratt, Ed.D., LPC
Jennifer Vasquez, LCSW
Ginger Chun
Naomi Freifreich
Laurie Stephens, LMSW-IPR
Tiffany Frias, LPC
Natalie Beck
Scott Bendle, M.Ed., LPC-S
Diane M. Benefiel
Jillian Bissar, LCSW
Elizabeth Hummert, LCSW
Emma Taylor, LCSW
Trey Johnson, LMSW
Linda Knewtson, LCSW
Angie Novak, LPC Intern
Ronald W. Prieto, LCSW
Rachel Slaymaker
Tara Ayala, LCSW
Anita Franz, LCSW
Lynn Panepinto, LMSW
Rolland Fellows, Ph.D.
Joseph Hartsoe
Aaron Robb, Ph.D., LPC-S

Sarah Stillwell, LPC
Penni Patterson, LCSW
Melissa Sutherland, LPC-S
Jenifer McLuskie, LMSW
Rebecca Cole, LCSW
Domenica Domingue
Susan Harnen, LCSW
Jennifer Canning
Gianna Viola, LCSW-S
Nancy Jo Long
Haley Williams
MaryAnn Kildebeck
Rose Mary Rodriguez
Charles Lavine, LPC
Ann Marie Haney, LCSW
Cheryl Jones, LMSW
Shannon Huggins, LCSW-S
Anatasia Deeter, LCSW-S
Carol Ann Ross, LMSW
Claire Woll
Virginia D. Manuel, LMSW-AP
Monica McCarthy
Pat Gleason-Wynn, Ph.D., LCSW
Rebecca Lincoln, LPC-S
Jan Friese, TCA ED
Jodie Elder, Ph.D., LPC-S, LMFT



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments/suggestions for proposed BHEC rules

2 messages

Katrina Daneshvar <kdaneshvar@harmonytx.org>

Fri, May 1, 2020 at 2:47 PM

To: open.records@tsbep.texas.gov

I would like the comments/suggestions listed in the attached document to be thoughtfully considered for the proposed BHEC rules.

Respectfully,

Katrina Daneshvar, MA, LPC, NCC | District Behavioral Counselor | Houston North
(281) 444-1555 | 3203 North Sam Houston Pkwy W. Houston, TX 77038

Join Our Team: Apply Today



Harmony Core Values: #CharacterMatters, #DedicatedStaff, #WorkingTogether, #HighExpectations, #STEMforAll

DISCLAIMER: This e-mail transmission, and any documents, files or previous e-mail messages attached to it, may contain confidential information that is legally privileged. If you are not the intended recipient, or a person responsible for delivering it to the intended recipient, you are hereby notified that any disclosure, copying, distribution or use of any of the information contained in or attached to this message is STRICTLY PROHIBITED. If you have received this transmission in error, please immediately notify this sender.

 Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 1, 2020 at 6:30 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

 Comments_BHEC Proposed Rules_04.24.20.pdf
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20

Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12

Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9.

Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (d)(f) To be eligible for an emergency temporary license, an applicant must:

 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on proposed rules

2 messages

Sarah Stillwell <sarahstillwell88@gmail.com>
To: open.records@tsbep.texas.gov

Fri, May 1, 2020 at 2:43 PM

Please see the attachment.

--

Thank You,

Sarah Stillwell, LPC

Pronouns: She/Her/Hers

Dallas Counseling and Treatment Center

Gender-Affirming Mental Health Services, Dallas Resource Center

TAMU-Commerce Doctoral Student

Senator, Texas Counselors for Social Justice

Emerging Leader, Texas Association of LGBT Issues in Counseling

Welcoming
& Affirming

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 1, 2020 at 6:30 PM

[Quoted text hidden]

--

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Kathleen Moore <kmoorelpcs@gmail.com>
To: open.records@tsbep.texas.gov

Sun, May 3, 2020 at 12:42 PM

Please consider these attached suggestions.

Thank you.

Kathleen Moore LPC-S

President of the Bluebonnet Counseling Association of Texas Counseling Association

 **Comments_BHEC Proposed Rules_04.24.20 (2) (3).pdf**
127K

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Sun, May 3, 2020 at 4:34 PM

[Quoted text hidden]

--

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

 **Comments_BHEC Proposed Rules_04.24.20 (2) (3).pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20

Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12

Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9.

Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (c)(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (d)(f) To be eligible for an emergency temporary license, an applicant must:

 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)h An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Penni Patterson <pennipatterson@gmail.com>
To: open.records@tsbep.texas.gov

Mon, May 4, 2020 at 9:20 AM

Please implement the suggested changes to the rules on establishing BHEC.

Suggested Comments on BHEC Rules

• General Provisions

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

• Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

• Applications and Licensure

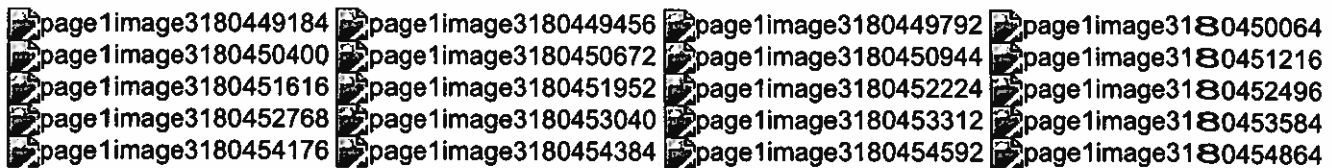
SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not

provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.



SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE §882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

- (1) the Governor declares a disaster under Government Code §418.014; and
- (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

- (1) the Governor declares a disaster under Government Code §418.014;
- (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
- (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
- (3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

- (1) submit an application in the form prescribed by the Council; and
- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.



page2image3159213040 page2image3159213312 page2image3159213584 page2image3159213856
page2image3159214128 page2image3159214400 page2image3159214672 page2image3159214944

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

page3image3160665024 page3image3160665232 page3image3160665440 page3image3160665712
page3image3160666048

• **Rationale:**

onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Thank you for the work you are doing during this time of emergency and always.

Sincerely,

Penni Patterson, LCSW

Penni Patterson, LCSW, MBA

This email and any files transmitted with it are confidential and are intended solely for the use of the individual or entity to which they are addressed. This communication may contain material protected by HIPAA legislation (45 CFR, Parts 160 & 164). If you are not the intended recipient or the person responsible for delivering this email to the intended recipient, be advised that you have received this email in error and that any use, dissemination, forwarding, printing or copying of this email is strictly prohibited. If you have received this email in error, please notify the sender by replying to this email and then delete the email from your computer.

Brenda Skiff <brenda@tsbep.state.tx.us>
 To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 4, 2020 at 10:50 AM

Brenda Skiff
 Public Information Officer/
 Legal Assistant
 Texas State Board of Examiners of Psychologists
 333 Guadalupe, Ste 2-450
 Austin, TX 78701
 512-305-7700
 [Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

comments on proposed rules 22TAC Chapter 881

2 messages

Melissa Dilworth <melissadarttherapist@gmail.com>

Mon, May 4, 2020 at 1:29 PM

To: open.records@tsbep.texas.gov

I support the following comments
Melissa Dilworth LPC-AT

Suggested Comments on BHEC Rules • General Provisions SUBCHAPTER B – RULEMAKING §881.20 Rulemaking by Executive Council (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may onlyalso review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns. (d) (pick up from notebook) Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent. • Complaints and Enforcement SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition. (c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule. Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays. • Applications and Licensure SUBCHAPTER A – LICENSE APPLICATIONS §882.9. Established Application Processing Time (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis. Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category. SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE §882.70. Emergency Temporary License. (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration. (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if: (1) the Governor declares a disaster under Government Code §418.014; and (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state. (c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if: (1) the Governor declares a disaster under Government Code §418.014; (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster; (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and (3) the applicant meets the requirements set forth herein below. (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first. (ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor. (df) To be eligible for an emergency temporary license, an applicant must: (1) submit an application in the form prescribed by the Council; and (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing. (e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration. (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date. (fh) An individual practicing under an emergency temporary license must: (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the

license number and instructions on how to verify the status of a license when initiating services with a patient or client; (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and (3) comply with all other applicable Council rules. (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license. • Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Melissa Dilworth <melissadarttherapist@gmail.com>
To: open.records@tsbep.texas.gov

Mon, May 4, 2020 at 1:30 PM

[Quoted text hidden]

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- ~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- ~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- ~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- ~~(df)~~ To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Melissa Sutherland <sutherlandlpc@gmail.com>

Mon, May 4, 2020 at 4:30 PM

To: open.records@tsbep.texas.gov

Dear BHEC Representative,

I am a Licensed Professional Counselor Supervisor and I appreciate all of the hard work that went into the proposed new rules published by BHEC on April 24, 2020. I understand comments and suggestions are being taken at this time. I would like to submit suggestions for the new rules. I have attached a copy of the rules that includes the suggestions I would like to have considered. Thank you for your time and consideration. I look forward to working with BHEC in the near future.

Respectfully,
Melissa L. Sutherland, LPC-S

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 4, 2020 at 6:25 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not ~~current~~ disciplinary action on the out-of-state license, certification, or registration.
- (~~a~~)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (~~b~~d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (~~e~~e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (~~d~~f) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Jarratt, Judy <Judy.Jarratt@ttuhsc.edu>

Tue, May 5, 2020 at 12:06 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

As a member of the Texas Counseling Association I wish to submit the following recommendations.

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS**§882.9. Established Application Processing Time**

- (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE**§882.70. Emergency Temporary License.**

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice

marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

Dr. Judy Jarratt, Ed.D., LPC, CSC

Senior Director for CATR (Campus Alliance Telehealth Resources)



Mailing - 3601 4th Street, STOP 7110, 79430

Phone: 8006-743-1887

judy.jarratt@ttuhsc.edu

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Tue, May 5, 2020 at 1:59 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jenifer McLuskie <jmcluskie@sbcglobal.net>

Tue, May 5, 2020 at 4:10 PM

Reply-To: Jenifer McLuskie <jmcluskie@sbcglobal.net>

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Jenifer McLuskie I am a **licensed social worker (LMSW)** and I am a supervisor of four caseworkers who all work within social services to help undocumented children who have left immigration detention facilities and one caseworker who assists families who have exited family or other immigration detention facilities as they seek asylum in the United States.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jenifer McLuskie, LMSW (Texas) and LGSW (District of Columbia)

APPLICATIONS & LICENSURE
SUBCHAPTER A – LICENSE APPLICATIONS
§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide

adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014; and

~~(2)~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014;

~~(2)~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b)

appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Jenifer McLuskie

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jennifer Vasquez <yogajena@gmail.com>

Tue, May 5, 2020 at 4:11 PM

To: open.records@tsbep.texas.gov

My name is Jennifer Vasquez and I am a licensed clinical social worker and PhD social work student. I am a full time Lecturer at Texas State School of Social Work and part time Lecturer at Lady of the Lake University School of Social Work.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Vasquez, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g)(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Jennifer Vasquez, LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Rebecca Cole <rebecca@rebeccacole.net>

Tue, May 5, 2020 at 4:13 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good Afternoon,

My name is Rebecca Cole and I am a **licensed clinical social worker**. I am a licensed clinical social worker for the Harris Center, the local mental health authority for Harris County, Texas. I provide crisis intervention paired with a licensed peace officer with Houston Police Department. I am the only social worker on my team. I take pride in my ability to provide this service to my community in my community and represent the social work field as well.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Rebecca Cole, LCSW

281-799-9416

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Ginger Chun <gmainchun@gmail.com>

Tue, May 5, 2020 at 4:43 PM

To: open.records@tsbep.texas.gov

My name is Ginger Chun and I am a student working on a master's degree in social work. I am already working in the social work field providing case management and mentorship to individuals experiencing homelessness as well as to families and individuals experiencing hardship.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ginger Chun

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e)(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

~
Ginger Chun
210-875-1392

"Be kind, it costs nothing"

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules

2 messages

Domenica (Domino) Domingue <pretty_domino@yahoo.com>

Tue, May 5, 2020 at 4:49 PM

To: open.records@tsbep.texas.gov

My name is Domenica Domingue and I am a **licensed social worker/social work student**. I work with dialysis patients in an outpatient setting as an LMSW providing patients with ways to cope with their normal and assist with getting insurance and transplants.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Domenica Domingue

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014; and

~~(2)~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014;

~~(2)~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ *may* solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ *may* specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ *may only also* review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

NAOMI FREIREICH <naomifreireich@yahoo.com>

Tue, May 5, 2020 at 5:04 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Naomi Freireich and I am a **licensed social worker. I have a private practice in Austin and work with adults and adolescents struggling with mental health issues.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e)e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(d)f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is

broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:51 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Harnden, Susan C <susan.harnden@austin.utexas.edu>

Tue, May 5, 2020 at 5:51 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

ADVOCACY ALERT – Improve the Licensing Board!**Submit Comments before May 22, 2020**

The Texas Behavioral Health Executive Council (BHEC) established in **HB 1501** (86R) will become fully operational on September 1, 2020. All behavioral health licensing boards – including the Texas State Board of Social Work Examiners – will be housed at BHEC which will be responsible for the administrative management of each board, including processing licenses, managing complaints, and overall operations.

The proposed rules are extensive because they establish all functions for a brand new state agency. It is essential that these rules be carefully vetted to ensure they align with the legislative intent of HB 1501 and preserve the authority of each independent licensing board housed at BHEC.

The National Association of Social Workers - Texas (NASW-TX) along with the Texas Society for Clinical Social Work (TSCSW), the Texas Counseling Association (TCA), the Texas Association of Marriage and Family Therapists (TAMFT) and the Texas Psychological Association (TPA), was provided a preview of the proposed rules and an opportunity to provide stakeholder input at the December BHEC meeting. Many of our suggestions were adopted and are reflected in the published rules. **However, several important revisions were not made, including licensure fees.**

NASW/TX, in partnership with TCA, TSCSW, TAMFT and TPA, did a thorough review of the published rules and will be submitting a unified statement requesting additional, important changes.

We need your help!

A large volume of comments is needed. It is essential that all licensees review the proposed rules and submit comments.

The proposed rules were published in the April 24, 2020 issue of the Texas Register.

Please feel free to use **the email template** at the end of this email as well as any other revisions that you identify.

My name is Susan Harnden, I am a Licensed Clinical Social Worker at the University of Texas at Austin Employee Assistance Program. I serve the employees of the university.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that

BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.

2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Susan Harnden, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out of state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or

ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Susan Harnden, LCSW, CEAP | Director, HealthPoint: Balance & Well-being in Work & Life | pronouns: she/her | The University of Texas at Austin | UTA 1616 Guadalupe 2.304 | 512.471.3366 | Direct Line 471-9105

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:52 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments

2 messages

Laurie Stephens <lasstephens61@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 6:39 PM

My name is Laurie Stephens, LMSW-IPR and I am a hospice social worker in the Houston Area.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Laurie Stephens, LMSW-IPR

TX 28933

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)d~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC draft rules

2 messages

Jen C <jennifercanning1979@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 6:50 PM

My name is Jennifer Canning and I am a social work student.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Canning

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(g)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC rules

2 messages

Tiffany Frias <tiff.frias@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 6:55 PM

Please consider making the following changes to the proposed rules for the Texas Behavioral Health Executive Council

General Provisions SUBCHAPTER B – RULEMAKING §881.20 Rulemaking by Executive Council (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns. (d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent. • Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS §884.12 Complaint Disposition. (c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule. Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays. • Applications and Licensure

SUBCHAPTER A – LICENSE APPLICATIONS §882.9. Established Application Processing Time (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis. Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category. **SUBCHAPTER G – EMERGENCY**

TEMPORARY LICENSE §882.70. Emergency Temporary License. (a) For purposes of this section, the term “good standing” means there is not current disciplinary action on the out-of-state license, certification, or registration. (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if: (1) the Governor declares a disaster under Government Code §418.014; and (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state. (c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if: (1) the Governor declares a disaster under Government Code §418.014; (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster; (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and (3) the applicant meets the requirements set forth herein below. (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first. (ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor. (df) To be eligible for an emergency temporary license, an applicant must: (1) submit an application in the form prescribed by the Council; and (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing. (e) For purposes of subsection (d) of this section, the term “good standing” means there is not current disciplinary action on that out-of-state license, certification, or registration. (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must

submit a renewal application on a board-approved form on or before the license expiration date. (fh) An individual practicing under an emergency temporary license must: (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client; (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and (3) comply with all other applicable Council rules. (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license. • Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

--

Tiffany Frias, LPC

210-396-1944

blackbirdcounselingandwellness.com

Because we cannot guarantee confidential and timely communication by email, it is the general practice of Blackbird Counseling & Wellness, PLLC not to communicate with clients by email. If you choose to email this address, please be aware that internet email is not a secure medium and others may be able to read your messages and my responses.



Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:55 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Gianna Viola <giannaviola@gmail.com>

Tue, May 5, 2020 at 7:12 PM

To: open.records@tsbep.texas.gov

My name is Gianna Viola and I am a **licensed social worker (LCSW-S)** in Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Gianna Viola, LCSW-S, CGP

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Gianna Viola, LCSW-S, CGP

Viola Therapy, PLLC

Psychotherapy & Clinical Supervision

512.942.7798

giannaviola.com

Please note that email is not considered a secure medium; confidentiality cannot be ensured.

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:55 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Natalie Beck <natalie.d.beck@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 7:22 PM

Good afternoon,

My name is Natalie Beck and I am a Licensed Clinical Social Worker and Board-Approved Supervisor. I am a social work professor at a university here in Austin.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Natalie Beck

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection ~~(d)~~ of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must may only also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

NJ Long <tjnjlong@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 12:16 AM

Hello,

My name is Nancy Jo Long and I have a masters in social work and I am a candidate for licensure in the State of Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Nancy Jo Long

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Scott Bendle <scott.bendle.lpc@gmail.com>

Wed, May 6, 2020 at 8:00 AM

To: open.records@tsbep.texas.gov

Good day!

I would like to endorse the proposed changes suggested by the Texas Counseling Association viewable at the following link:

TCA Suggested Changes to Proposed Rules 22TAC Chapter 881

If you have any questions, please feel free to contact me.
Thank you!

Sincerely,
Scott Bendle, MEd, LPC-S
(210) 427-0149

:

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20

Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12

Complaint Disposition.

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9.

Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Haley Williams <hbwilliams93@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 9:04 AM

Hello,

My name is Haley Williams and I am a licensed social worker. I work with college students, particularly those with learning disabilities and mental health issues.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Haley Williams

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881.

Haley Williams

Texas Ex | Class of 2016

Master's of Social Work, University of Texas, 2018

Phone: 913-775-0512

hbwilliams93@gmail.com

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Diane Benefiel <dbenefiel@menninger.edu>
 To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Wed, May 6, 2020 at 10:07 AM

To Whom It May Concern:

My name is Diane M. Benefiel and I am a licensed clinical social worker with supervision. I work at a psychiatric hospital in an inpatient unit. I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Diane M. Benefiel

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

• Rationale: One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

• Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

• Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words “must also” implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

Diane M. Benefiel, LCSW, LCDC-I

Sr. Social Worker/Addictions Counselor

The Menninger Clinic



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

MaryAnn Kildebeck <MaryAnn@kildebeck.us>
 To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>
 Cc: MaryAnn Kildebeck <MaryAnn@kildebeck.us>

Wed, May 6, 2020 at 10:29 AM

My name is MaryAnn Brooks Kildebeck, LCSW, and I am a **licensed social worker/social work student**.
Optional: provide details about your job position and the clients you serve.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) ~~For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(eg)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

MaryAnn Kildebeck, LCSW

Direct: 972-377-6400

Fax: 855-856-6484

1015 West Oak Street

Denton, TX 76201

(In the Historic District, so no signage is allowed. This is a two-story brown brick building with a red tile roof.)

8668 John Hickman Pkwy. #905

Frisco, TX 75035

(At the NE corner of John Hickman and Legendary Drive. It is the SECOND building east of Legendary Drive.)

PO Box 1647

Denton, TX 76201

HAVE ALL MAIL SENT HERE

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 10:38 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jillian Bissar <jillianbissar@gmail.com>

Wed, May 6, 2020 at 12:31 PM

To: open.records@tsbep.texas.gov

My name is Jillian Bissar, LCSW and I am a **licensed social worker/social work student**. I work with cancer patients at one of the top cancer hospitals in the country right here in the great state of Texas. Our patients come from all over the country and world to receive care at our facility.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jillian Bissar, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments BHEC draft rules

2 messages

Rose Mary Rodriguez <rmrod87@yahoo.com>

Wed, May 6, 2020 at 12:48 PM

To: open.records@tsbep.texas.gov

My name is Rose Mary Rodriguez from El Paso, Texas, and I am a **Licensed Clinical Social Worker**. I have been working with the Las Palmas Kidney Transplant Center for the last 3 years serving patients who are being evaluated for a kidney transplant or have already received a transplant. I have 40 years post-graduate experience in the areas of vocational rehabilitation, medical social work, and school social work addressing individuals with special needs.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged. I also bring to your attention that social worker's salaries are not adequate so any increase in licensing rates impact the decisions of trained social workers to remain in the profession as opposed to entering another sector of employment for better pay.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely

Rose Mary Rodriguez, LCSW/ C-ASWCM

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide

adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) ~~For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(e)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b)

appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 12:56 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Elizabeth Hummert <Elizabeth.Hummert@gpisd.org>

Wed, May 6, 2020 at 3:34 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Elizabeth Hummert and I am a Licensed Clinical Social Worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Elizabeth Hummert

LCSW - Supervisor #40267

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report

will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under § 418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As

proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Elizabeth "Liz" Hummert, LCSW, Clinical Supervisor

Student Mental Health and Safety Advisor

Grand Prairie ISD

972-522-7074



Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 6:39 PM

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments

5 messages

Charles Lavine <clavine1@att.net>

Tue, May 5, 2020 at 12:53 PM

To: open.records@tsbep.texas.gov

To Whom It May Concern:

Attached are my comments to proposed new rules under consideration by the Texas Behavioral Health Executive Council.

My proposed deletions are indicated by strikethroughs, and proposed additions and changes are indicated in red type.

I am a Licensed Professional Counselor (license # 13146), and a current member of the Texas Counseling Association (TCA). TCA is encouraging its members to read the proposed rules and offer comments.

Respectfully,

Charles Lavine, LPC.

 **Comments BHEC.pages**
354K**Brenda Skiff** <brenda@tsbep.state.tx.us>

Tue, May 5, 2020 at 1:59 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

 **Comments BHEC.pages**
354K**Patrick Hyde** <general.counsel@tsbep.state.tx.us>

Tue, May 5, 2020 at 4:06 PM

To: Brenda Skiff <brenda@tsbep.state.tx.us>

Brenda:

I wasn't able to view this guy's attachment were you? If not we can check with Pat to make sure we download it correctly.

Thanks,

Patrick Hyde
General Counsel
Texas State Board of Examiners of Psychologists
333 Guadalupe, Suite 2-450
Austin, Texas 78701
Tel.: 512-305-7700
Fax: 512-305-7701

general.counsel@tsbep.state.tx.us

NOTICE: This communication may be confidential and/or privileged under law, specifically including Rule 192 of the Texas Rules of Civil Procedure, Article V of the Texas Rules of Evidence, Section 501.205 of the Texas Occupations Code, and other applicable statutory, quasi-statutory, and common law authorities. Additionally, pursuant to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and court interpretations thereof, the information that is contained within this communication may not be subject to disclosure to the public and further may be protected from disclosure or production for other purposes. This information is intended for the exclusive use of the addressee or addressees named above. If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee name above), copying or the taking of any action because of this information is strictly prohibited. If you have received this information in error, please immediately notify me by telephone to arrange for the return of the document.

[Quoted text hidden]

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 7:09 AM

I couldn't either.

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]

Patrick Hyde <general.counsel@tsbep.state.tx.us>
To: Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:30 PM

Attached is a Word version of what was sent.

Patrick Hyde
General Counsel
Texas State Board of Examiners of Psychologists
333 Guadalupe, Suite 2-450
Austin, Texas 78701
Tel.: 512-305-7700
Fax: 512-305-7701
general.counsel@tsbep.state.tx.us

NOTICE: This communication may be confidential and/or privileged under law, specifically including Rule 192 of the Texas Rules of Civil Procedure, Article V of the Texas Rules of Evidence, Section 501.205 of the Texas Occupations Code, and other applicable statutory, quasi-statutory, and common law authorities. Additionally, pursuant to the Texas Public Information Act, Chapter 552 of the Texas Government Code, and court interpretations thereof, the information that is contained within this communication may not be subject to disclosure to the public and further may be protected from disclosure or production for other purposes. This information is intended for the exclusive use of the addressee or addressees named above. If you are not the intended recipient, you are hereby notified that any use, disclosure, dissemination, distribution (other than to the addressee name above), copying or the taking of any action because of this information is strictly prohibited. If you have received this information in error, please immediately notify me by telephone to arrange for the return of the document.

[Quoted text hidden]

 **Comments BHEC.docx**
486K

Comments on BHEC Rules

• General Provisions

SUBCHAPTER B - RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

• Complaints and Enforcement

SUBCHAPTER B - INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

• Applications and Licensure

SUBCHAPTER A - LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G §882.70.

- EMERGENCY TEMPORARY LICENSE

Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)~~ (b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice

marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and~~

~~rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below. ~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ (f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction. ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ (h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- Rationale:

onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

The unprecedented severity and magnitude of the current outbreak has shed some light



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Taylor, Emma <Emma_Jones@baylor.edu>

Wed, May 6, 2020 at 4:14 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Emma Taylor and I am an LCSW. I work as a therapist for children and adolescents with chronic illnesses, and I am also a faculty member and lecturer in an MSW program.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Emma Taylor, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and

appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ *may* solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ *may* specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Emma Taylor, LCSW

Lecturer

Diana R. Garland School of Social Work

Baylor University - Houston Extension

Email: emma_jones@baylor.edu

4100 S. Main St.
Houston, TX 77002

Cell Phone: 713-907-4616

She, her, hers

Confidentiality Notice: The documents accompanying this Email transmission contains confidential information belonging to the sender that is legally privileged. This information is intended only for the use of the individual or the entity named above. If you are not the intended recipient, you are hereby notified that any disclosures, copying, distribution or the taking of any action in reliance on the contents of the email information is strictly prohibited.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:01 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

3 messages

Ann Marie Haney <amhaney@live.com>

Wed, May 6, 2020 at 4:24 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good afternoon,

My name is Ann Marie Haney, and I am a licensed clinical social worker. I provide outpatient behavioral health services at Hope Clinic, a Federally Qualified Health Center in Waxahachie, TX. We serve patients regardless of their ability to pay, providing increased access to care for our community.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ann Marie Haney, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

- a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for

each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
- (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
- (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (b d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (e e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (e f) To be eligible for an emergency temporary license, an applicant must:
- (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~
- (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- (f h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

- (c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

- (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed § 881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Mary Jo Kraus <maryjoannekraus@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 5:32 PM

My name is Dr. Mary Joanne Kraus and I am a **licensed clinical social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

I would like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Dr. Mary J. Kraus, LCSW
19206 Huebner Rd. #104
San Antonio, TX 78258
(v) 706-247-3515
(f) 210-499-4956
www.mjkfamilytherapy.com
maryjoannekraus@gmail.com

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:02 AM

Brenda Skiff
Public Information Officer/
Legal Assistant



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Trey Johnson <ctreyjohn@gmail.com>

Wed, May 6, 2020 at 9:15 PM

To: open.records@tsbep.texas.gov

My name is Trey Johnson and I am a licensed master social worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Trey Johnson, LMSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~ current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Cheryl Jones <chcjones@gmail.com>

Thu, May 7, 2020 at 7:36 AM

To: open.records@tsbep.texas.gov

Good morning,

My name is Cheryl Jones, LMSW and I am a licensed social worker in Dallas working for a social service agency full time and a local hospital system on the weekends.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Cheryl Jones, LMSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ *may* solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ *may* specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:03 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Linda Knewton <LKnewton@menninger.edu>

Thu, May 7, 2020 at 9:03 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Linda Knewton and I am a licensed clinical social worker employed at The Menninger Clinic in Houston. We serve patients with psychiatric illness.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature is a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Linda Knewton, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. ~~These~~ figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional

counseling, or social work in another jurisdiction ~~and that the licensee, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) _____ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing

standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Linda Knewtson, LCSW-S

Social Worker

CPAS

The Menninger Clinic

12301 Main Street

Houston, TX 77035

lknewtson@menninger.edu

Phone: 713-275-5078

Fax: 713-275-5490



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Shannon Huggins <shannon@shannonhuggins.com>
To: open.records@tsbep.texas.gov

Thu, May 7, 2020 at 11:49 AM

To Whom It May Concern:

My name is Shannon Huggins and I am a licensed clinical social worker and supervisor in private practice where I treat children and families as well as adults with psychiatric illness. I appreciate being able to provide the following comments on the Texas Behavioral Executive Council (BHEC) draft rules. I want to use this opportunity to improve the licensing board to better serve all social workers in the state. We need an efficient and skilled board to function at its highest capacity to help social work professionals meet the many needs of Texans, especially during the time of COVID-19.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points.

1) BHEC Discretion re: Emergency License - COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing.

2) Licensing Rates - It is disappointing to see that our social work licensing rate has increased. Social workers already struggle with immense backlogs and delays with licensing applications and renewals. As rates have increased, board responsiveness to critical licensing needs has decreased. I ask that BHEC rules keep social work licensing rates unchanged.

Thank you for allowing me to provide feedback on the BHEC rules. I look forward to working together to improve board processes for social work licensure.

Sincerely,
Shannon Huggins, LCSW-S, BCD

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

- (1) the Governor declares a disaster under Government Code §418.014; and
- (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

- (1) the Governor declares a disaster under Government Code §418.014;
- (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

- (1) submit an application in the form prescribed by the Council; and
- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(gi)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

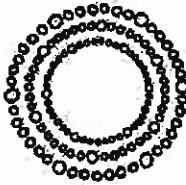
- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



SHANNONHUGGINS
LCSW-S-BCD

Psychotherapist and Board Approved Supervisor
Clinical Director Open City Psychotherapy
8133 Mesa Drive, Suite 104 Austin, TX 78759
Phone 512.538.0558 / Fax 512.538.0598
shannon@shannonhuggins.com / www.shannonhuggins.com

This email and its attachments may contain privileged and confidential information and/or protected health information (PHI) intended solely for the use of Shannon Huggins, LCSW-S, BCD and the recipient(s) named above. If you are not the recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any review, dissemination, distribution, printing, or copying of this email message and/or any attachments is strictly prohibited. If you have received this transmission in error, please notify the sender immediately at 512-538-0558 and permanently delete this email and any attachments.



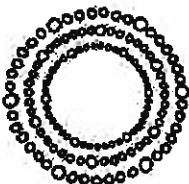
PastedGraphic-1.tiff
23K

SHANNONHUGGINS
LCSW-S-BCD

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 12:05 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



PastedGraphic-1.tiff
23K

SHANNONHUGGINS
LCSW-S-BCD



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on BHEC Rules

1 message

Angie Novak <angie.novak@pisd.edu>

Thu, May 7, 2020 at 4:04 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To Whom it May Concern,

As a proud member of the Texas Counseling Association, I am very passionate about promoting professional counselors. Please consider my proposed comments in the attached document.
Our fellow Texans deserve access to mental health workers, especially when the mental health needs increase as the impact of this epidemic continues.

Best Regards,
Angela Novak LPC-Intern
Plano, Texas

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- ~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- ~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- ~~(c)(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- ~~(d)(f)~~ To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Deeter, Anastasia L. <aldeeter@texaschildrens.org>
To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Thu, May 7, 2020 at 11:33 AM

Good morning,

My name is Anastasia Deeter and I am a Licensed Clinical Social Worker (LCSW). For the past five years I have worked at Texas Children's Hospital providing services to children and families. In my role I often provide crisis intervention, supportive counseling, psychosocial education, case management, and complete a variety of assessments. I also serve on our leadership team and assist with ensuring best patient practices, as well as coordinate all of our social work internship opportunities. In addition, I also serve as a Board Approved Clinical Supervisor.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommended and the sections covered. I would also like to highlight two important points.

1. BHEC Discretion re: Emergency License – COVID 19 has shown that social work licensure across states can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing rates – it is incredibly disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. For instance, I have one supervisee who is still waiting to hear back from the board on acknowledgement of their completion of LCSW supervision and approval to sit for their exam; it has been nearly four months. The students I work with often report it taking between two to six months, four months appearing to be average, to receive approval to sit for their LMSW examinations. We continue to see licensing rates grow without any changes to show for it. If I am to read the proposed rules correctly, I can assume that my renewal rates as an LCSW-Supervisor will increase by \$113 per renewal period, that is over \$55 increase per year. We ask that the BHEC rules to keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Anastasia

Anastasia Deeter, LCSW-S

Clinical Specialist- Student Programming
Instructor- Baylor College of Medicine

1102 Bates Ave, Ste 1930
Houston, TX 77030

Direct	Pager	Fax
832-824-0729	832-824-2099	832-825-6366



Affiliated with:



Applications & Licensure

SUBCHAPTER A- License Applications

882.9. *Established Application Processing Time*

A. The Council shall publish the minimum, maximum and median times for processing applications by by each license type during the preceding 12-month period on its website, together with a justification for each of the periods. These figures will be updated on an annual basis.

- a. **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G- Emergency Temporary License

882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a-b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) The Governor declares a disaster under Government Code 418.014; and

(2) The person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) the Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) The Governor declares a disaster under Government Code 418.014;

(2) The person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under 418.014 and issues a proclamation in accordance with the Government Code 418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(3) The Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(4) The applicant meets the requirements set forth herein below.

~~(b d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work with in the disaster designated by the governor.

~~(d f)~~ to be eligible for an emergency temporary license, an applicant must:

(1) Submit an application in the form prescribed by the Council; and

~~(2)~~ Submit written verification that the applicant is actively licensed, certified, or registered to practice marriage and family therapy, professional counseling, psychology, or social work in another jurisdiction and the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f h) An individual practicing under an emergency temporary license must:

(1) Display a copy of the emergency temporary license in a conspicuous location when delivering services or provide written notification of the license number and instructions on how to verify the status of a license when initiation services with a patient or client;

(2) Provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) Comply with all other applicable Council rules.

~~(g i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

Rationale: The unprecedented severity and magnitude of the current outbreak has shown some light on appropriate disaster response provisions for health care providers. The proposed language referring to practical agency discretion is far more restrictive than current practice, and arguably conflicting with Government Code 418.117. The suggested language addresses these concerns by codifying the license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has

a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, the BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B- Investigation and disposition of complaints

884.12 Complaint Disposition

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering contested enforcement matter if there are concerns about the standard of care of ethical practice showed by the licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in 507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practices required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standard therefore must be required to consult with member boards when these issues arise in context of enforcement matters. The benefits of engaging each board outweighs any potential processing delays. _

-

GENERAL PROVISIONS

-

SUBCHAPTER B- Rulemaking

881.20- Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each separate member board for anti-competitive impacts, administrative consistency, and good governance concerns

Rationale: 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Health Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed 881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as the legislative intent.

CONFIDENTIALITY NOTICE:

The information in this e-mail may be confidential and/or privileged. If you are not the intended recipient or an

authorized representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this e-mail and its attachments, if any, or the information contained herein is prohibited. If you have received this e-mail in error, please immediately notify the sender by return e-mail and delete this e-mail from your computer system. Thank you.

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:33 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

roniprieto@elp.rr.com <roniprieto@elp.rr.com>

Thu, May 7, 2020 at 4:08 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Ronald W. Prieto and I am a Licensed Clinical Social Worker. I have just retired my position as Director of Case Management from an acute inpatient physical rehabilitation hospital, which I held for the past 20 years. Prior to that, I had ten years experience working in both inpatient and outpatient psychiatric settings. I began my work experiences before there was any licensure by the state of Texas. Thus, I am keenly aware of the need of having an efficient licensing board who is aware of the functions and scope of services for social workers.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ronald W. Prieto, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(f)~~ (f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ (h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Subject line: Comments on Proposed Rules 22TAC Chapter 881.

statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:33 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Carol Ann Ross <carolann@daringventures.com>
To: open.records@tsbep.texas.gov

Thu, May 7, 2020 at 3:49 PM

Dear Texas State Board representative,

My name is Carol Ann Ross and I am a **licensed social worker**. I work for a small group practice that serves individuals, couples and families impacted by addiction.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. **BHEC Discretion re: Emergency License** – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates:** It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Carol Ann Ross, LMSW, CSAT, CMAT

Therapist | Addiction Specialist

Daring Ventures, Counseling, Coaching and Consulting, LLC

Certified Sex Addiction Therapist

Certified Multiple Addiction Therapist

DaringVentures.com

1.855.602.2554



APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(~~bd~~) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(~~ee~~) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(~~ef~~) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(~~e~~) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(~~g~~) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(~~fh~~) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(~~gi~~) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or

ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Rachel Slaymaker <rxw99a@acu.edu>

Thu, May 7, 2020 at 9:20 PM

To: open.records@tsbep.texas.gov

My name is Rachel Slaymaker, and I am a **licensed social worker. I am also a social work educator who helps prepare students for licensure in the State of Texas.** I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(g)(i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

--
Rachel Slaymaker, LMSW, EdD Candidate

Associate Professor
Director of Field Education
Associate Director of the School of Social Work
Abilene Christian University
ACU Box 27866
Abilene, Texas 79699
325.674.2072 (main office)
325.674.2142 (direct ext)
www.acu.edu/socialwork

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Edits to HB 1501

2 messages

Claire Woll <clairemwoll@gmail.com>

Fri, May 8, 2020 at 10:58 AM

To: open.records@tsbep.texas.gov

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

My name is Claire Woll and I am a **licensed social worker providing counseling and mental health services to children, adolescents and young adults in Texas.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Claire Woll

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) ~~For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)d~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed

§881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 11:18 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Tara Ayala LCSW <taraayalalcs@gmail.com>

Fri, May 8, 2020 at 2:32 PM

To: open.records@tsbep.texas.gov

My name is Tara Ayala_and I am a **licensed social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Tara Ayala

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881.

Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Sent from my iPhone

Brenda Skiff <brenda@tsbep.state.tx.us>

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 2:30 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Virginia Manuel <v.manuel.msw@gmail.com>
To: open.records@tsbep.texas.gov

Fri, May 8, 2020 at 7:24 PM

My name is Virginia D. Manuel, LMSW-AP and I am a **licensed social worker**. In my 43 years of practice, I have always worked in public or non-profit organizations which serve the lowest income individuals in Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Virginia D. Manuel, LMSW-AP

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical

delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014; and

~~(2)~~ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1)~~ the Governor declares a disaster under Government Code §418.014;

~~(2)~~ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

National Association of Social Workers, Texas Chapter (NASW/Texas)

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Anita Franz <anitafranzlcs@gmail.com>
 To: open.records@tsbep.texas.gov

Fri, May 8, 2020 at 8:44 PM

My name is Anita Louise Franz, and I am a **licensed clinical social worker** providing play therapy to children ages 3 - 11.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Anita Louise Franz, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(e) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Anita Louise Franz, LCSW
13706 Research Blvd Ste. 205
Austin, TX 78750

anitafranzlcsw@gmail.com
512-765-5705

****Please be aware that e-mail--and any form of electronic communication--is Social not a secure or confidential means of sending information. Be cautious when disclosing sensitive or private materials, as your message becomes the property of third parties (your server and your recipient's server). If you receive this or any e-mail communication in error, please contact the sender immediately and delete the message and any attachments/files. Copying, disclosing, or distributing the content of such electronic messages is prohibited.****

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Improving the Texas Behavioral Health Executive Council (BHEC)

1 message

Monica McCarthy <mrmccarthy4@gmail.com>

Sat, May 9, 2020 at 1:54 PM

To: open.records@tsbep.texas.gov

To Whom it May Concern,

My name is Monica McCarthy I am a **Licensed Master Social Worker**. I currently work as a Program Specialist to the Texas Section 811 Project-Based Rental Assistance Program, which provides rental assistance to over 400 adults with disabilities and their households, allowing them to live in the community instead of an institution.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Monica McCarthy

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

--

Monica McCarthy, LMSW

Pronouns: she/her/hers

Email: mrmccarthy4@gmail.com

Phone: 847-477-6986



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Lynn Panepinto <lpnepinto@utexas.edu>
To: open.records@tsbep.texas.gov

Mon, May 11, 2020 at 2:29 PM

Hello,

My name is Lynn Panepinto and I am a **licensed master social worker (LMSW)** in Austin. I work as a bilingual counselor with survivors of violence and abuse at a nonprofit organization.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. **BHEC Discretion re: Emergency License** – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates:** It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Lynn Panepinto, LMSW

Pronouns: she/her/hers

MSSW, School of Social Work

MA, Lozano Long Institute of Latin American Studies

lpnepinto@utexas.edu

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

~~(1) the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed

§881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881

2 messages

Pat Gleason-Wynn <drpgw@yahoo.com>

Mon, May 11, 2020 at 7:24 PM

Reply-To: Pat Gleason-Wynn <drpgw@yahoo.com>

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Pat Gleason-Wynn, PhD, LCSW. I am a Licensed Clinical Social Worker who works with older adults and their caregivers both in the community and in healthcare. I have been a social worker for 40 years.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need **an efficient and skilled board** to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.**

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

Pat Gleason-Wynn, PhD, LCSW, CSW-G
5009 Sheridan Court, Arlington, TX 76017

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) ~~For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) the Governor declares a disaster under Government Code §418.014; and~~

~~(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) ~~the Governor declares a disaster under Government Code §418.014;~~

~~(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Pat Gleason-Wynn, PhD, LCSW, CSW-G

Happiness does not depend on accumulating more things, but on the mindset we have concerning the things we already do possess. Fulton Sheen, Finding True Happiness

Brenda Skiff <brenda@tsbep.state.tx.us>

Tue, May 12, 2020 at 9:06 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881

1 message

Arthur Rolland Fellows <arfellows@gmail.com>
To: open.records@tsbep.texas.gov

Mon, May 18, 2020 at 7:26 AM

I am submitting comments on the Subject line: Comments on Proposed Rules 22TAC Chapter 881 .

Below are comments to the rules for the The Texas Behavioral Health Executive Council. I am suggesting that changes be made to the rules that establish the TBHEC that reflect the proposed changes in the rules below.

Attached is a PDF document with my suggestions.

Thank you for considering my suggestions.

Rolland Fellows, PhD
4131 Spicewood Springs
Suite G-6
Austin, TX 78759
Work/Cell : 512-346-1796

Full Name: Arthur Rolland Fellows

Proposed changes:

 **Comments_BHEC Proposed Rules_04.24.20.pdf**
127K

Suggested Comments on BHEC Rules

- **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

- **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

- **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; ~~the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (d)(f) To be eligible for an emergency temporary license, an applicant must:

 - (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.

(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Rebecca Lincoln <rebecca@lincolnlpc.com>

Tue, May 19, 2020 at 10:39 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

For your consideration regarding the Texas Behavioral Health Executive Council (BHEC), I recommend the following changes:

Regarding 881.20, change "must also" to "may only" ; This will better align with 507.153 of the Occupational Code

§881.20 Rulemaking by Executive Council (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Regarding 884.12, Change "may" to "shall"; The member boards are the best source of ethical complaints and have the knowledge of the specific profession. Member boards shall be consulted. I realize this may delay processing, however, it is important to consult the member boards.

§884.12 Complaint Disposition. (c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

Regarding 882.70, Please make the changes as recommended by The Texas Counseling Association, National Association of Social Workers - Texas (NASW-TX), Texas Society for Clinical Social Work (TSCSW), the Texas Association of Marriage and Family Therapists (TAMFT) and the Texas Psychological Association (TPA),

These are all outstanding organizations that support the professions of mental health counseling. Heed their recommendations.

Thank you for your consideration.

Warmly,
Rebecca Lincoln, LPC-S #17816

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 20, 2020 at 10:03 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 8812 messages

Joe K. Hartsoe <joehartsoe@gmail.com>
To: open.records@tsbep.texas.gov

Thu, May 21, 2020 at 10:16 AM

To Whom It May Concern:

My name is Joseph Hartsoe and I am a social work student who has graduated and waiting for my license to be issued any day. My previous experience and future area of practice is working with youth in the school setting to provide social and emotional support with education to enhance their functioning, increase matriculation, and entrance into the Texas society as contributing members to our communities.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. Our profession continue to see licensing rates grow without any change to show for it. I ask that BHEC rules keep our rates unchanged.
 1. The renewal fee on LMSW/LCSW licenses is of particular concern when compared to the renewal fee of LPC's. LMSW practitioners do not have the same independent practice authority as LPC holders but yet, your proposed plan outlines that the two be charged the same rate for their license renewal each cycle.
 2. Further, it is unfortunate to see that LCSW practitioners are required to pay more than LPCs for their license renewal. LCSW's traditionally offer comparable services in psychotherapy and independent practice authority, yet, the board's current proposal state that LCSW's be charged more for their license renewal compared to their LPC colleagues.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Joseph Hartsoe

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another

jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) _____ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS**SUBCHAPTER B – RULEMAKING****§881.20 Rulemaking by Executive Council**

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:56 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment on Proposed BHEC Rules

2 messages

Jan Friese <Jan@txca.org>

Thu, May 21, 2020 at 8:59 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

Cc: "Will Francis - National Association of Social Workers/Texas Chapter (WFrancis@naswtx.org)" <WFrancis@naswtx.org>, Tris Castaneda <tcastaneda@longbow-partners.com>, "Mark Hanna (mhanna@markjhanna.com)" <mhanna@markjhanna.com>, TPA Executive Director <jessica@texaspsyc.org>

Thank you for the opportunity to comment on the Texas Behavioral Health Executive Council proposed rules. I am submitting the attached letter on behalf of the National Association of Social Workers, Texas Chapter; the Texas Association for Marriage and Family Therapy; the Texas Counseling Association; the Texas Psychological Association; and the Texas Society for Clinical Social Work. It reflects our collective comments on the rules published in the April 24th issue of the *Texas Register*.

We appreciate the opportunity to work with you on the successful launch of BHEC and appreciate your consideration of these suggested modifications to the published rules.

Jan Friese

Executive Director

Texas Counseling Association

www.txca.org

512-472-3403, ext 11

TCA: Professional Counselors committed to advocacy, leadership and the promotion of professional excellence.

Renew or Join Today!

TCA leads, educates and advocates to advance the counseling profession, to increase access to professional counselors, and to promote wellness.

TexasBehavioralHealthExecutiveCouncil_ProposedRules_PublicComment_Behavioral Health Coalition_05.21.20.pdf
271K



Texas Society for Clinical Social Work



May 15, 2020

Coalition Comments on Texas Behavioral Health Executive Council DRAFT RULES

The mental health professional associations listed above represent Licensed Marriage and Family Therapists, Licensed Professional Counselors, Psychologists and Social Workers. The comments herein reflect our collective efforts to ensure the successful launch and functioning of the newly created Texas Behavioral Health Executive Council (BHEC).

We appreciate the legislative leadership and thoughtful emphasis on strengthening the mental health infrastructure in Texas and applaud the many hours of implementation work in connection with establishing a well-functioning and responsive BHEC. BHEC is an innovative strategy to create operational efficiencies while maintaining the integrity of the respective member boards' appropriate regulatory authority over what makes each mental health professional licenses unique. The regulatory authority delegated to BHEC is explicitly limited to establishing operational efficiencies and ensuring that any rule promulgated by a member board does not violate federal antitrust laws by limiting competition or impacting prices charged by persons engaged in a profession or business the executive council regulates. This ensures active state supervision while protecting the state's sovereign immunity.

Our associations appreciate the opportunity to participate both informally and formally in the process to adopt the rules that will govern BHEC's operating procedures and relationship with our respective licensing boards. Many of the proposed rules reflect the comments and recommendations delivered by us at your last meeting, but there are additional rules we would respectfully submit for your consideration, such as those allowing for emergency licenses, that reflect the current health crisis and should provide for a much swifter state response in the future.

We welcome your favorable consideration and encourage the agency to adopt the language recommendations listed below to ensure the rules as finally adopted are consistent with Chapter 507 of the Texas Occupations Code, as well as current and best practices.

Applications and Licensure

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

- (a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: One of the key features contemplated by the Legislature in creating BHEC is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report

will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- (a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
 - (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
 - (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- (bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- (ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- (df) To be eligible for an emergency temporary license, an applicant must:
 - (1) submit an application in the form prescribed by the Council; and

- (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~
- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~
- (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- (fh) An individual practicing under an emergency temporary license must:
 - (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

Rationale: The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. The published language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested new language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

Complaints and Enforcement

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12

Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. BHEC does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

General Provisions

SUBCHAPTER A – GENERAL PROVISIONS: Add a new §881.14 as follows:

§881.14 Impartiality and Non-discrimination

(a) The BHEC board members will make decisions in the discharge of its statutory authority without regard to a person's age, race, religion, ethnicity, sex, gender, affectional orientation, disability, national origin, or genetic information.

(b) Any BHEC board member who is unable to be impartial in the determination of disciplinary action against a licensee or who is determined to have a conflict of interest as set forth in §881.5 will declare this to the board and will not participate in any board proceedings involving that licensee.

(c) A person needing accommodations under the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) in order to access BHEC board services must request reasonable accommodations in writing and may be required to provide verification of the person's disability and recommendations for appropriate accommodations from a medical, mental health, rehabilitation, or educational professional or specialist qualified to make such recommendations.

Rationale: Each of the member boards housed at BHEC have similar language currently in their rules. It appears that due to the role BHEC has in issuing licenses and administering the complaint process, those specific rules are being removed as the individual member boards propose rules changes to align with HB 1501 and the creation of BHEC. These protections, however, should be maintained by BHEC. We anticipate that the omission of this important language is an oversight since these rules were developed prior to the rule reviews undertaken by the individual member boards.

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the

Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) Member boards must submit a new draft rule or rule change to the Council for consideration by submitting a draft of the rule with any deletions crossed through and additions underlined. The draft must also contain each of the notice components required in a preamble (e.g. §2001.024 of the Government Code) when proposing a new rule or rule change to the Council, member boards must also submit any information or comments received from the public in connection with the proposed rule. The Council shall limit its review of proposed rules to questions regarding anticompetitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by BHEC only for anti-competitive impacts, administrative consistency and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. The words “must also” implies that the authority of BHEC to review member board rules is broader than statutorily allowed. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

CONTACTS

Will Francis, Executive Director

National Association of Social Workers – Texas Chapter

(512) 474-1454

wfrancis.naswtx@socialworkers.org

Tris Castaneda

Texas Association for Marriage and Family Therapy

(512) 320-9933

tcastaneda@longbow-partners.com

Jan Friese, Executive Director

Texas Counseling Association

(512) 472-3403

Jan@txca.org

Jessica Magee, Executive Director

Texas Psychological Association

(512) 528-8400

jessica@texaspsyc.org

Mark Hanna

Texas Society for Clinical Social Work

(512) 477-6200

mhanna@markjhanna.com



Brenda Skiff <brenda@tsbep.state.tx.us>

Rules comments

2 messages

Aaron Robb <aaron@texascounseling.org>
To: open.records@tsbep.texas.gov

Fri, May 22, 2020 at 8:54 PM

Please see attached

--

Aaron Robb, Ph.D., LPC-S
Forensic Counseling Services
<http://www.texascounseling.org>
Mailing Address: 2831 Eldorado Pkwy., Ste. 103-377, Frisco, TX 75033
Phone: 972-360-7437; Fax: 940-343-2601

"You can't go back and make a new start, but you can start right now and make a brand new ending." James Sherman
(commonly mis-attributed to C. S. Lewis)

This e-mail and any attachments contain information from the office of Aaron Robb, Ph.D., LPC-S, and are intended solely for the use of the named recipients. Any dissemination of this e-mail is strictly prohibited. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mails or attachments.

 **BHEC rules comments 2020-05-22.pdf**
96K

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:57 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]

 **BHEC rules comments 2020-05-22.pdf**
96K

Aaron Robb, Ph.D., LPC-S
2831 Eldorado Parkway, Suite 103-377
Frisco, TX 75033

5/22/2020

open.records@tsbep.texas.gov

Dear Texas Behavioral Health Executive Council staff,

I am writing to provide feedback on the recently proposed rule. By way of background, I am a Licensed as a Professional Counselor, although in addition to my Master's in Counseling I also hold a Doctorate in Social Work. Having studied in multiple professional disciplines I appreciate the challenge that BHEC has in working with member boards of different backgrounds. After beginning my career with Child Protective Services I transitioned to working for Dallas County Family Court Services providing child custody evaluations and other services. Although I have transitioned from public service to private practice, over the last two decades I have focused on forensic mental health services. In that time I have published articles in academic and professional journals and amongst my academic work I serve on the Editorial Boards of the journal *Family Court Review* and the *Journal of Family Trauma, Child Custody & Child Development*. Locally, I have worked with the Family Law Foundation to help draft and pass various pieces of legislation that impact Texas families, including various revisions of Section 107, Subchapter D of the Texas Family Code regarding child custody and adoption evaluations. Thanks to more than a decade of work by the family law and mental health communities, Texas has some of the most rigorous laws in the nation regarding to professional practices and requirements for evaluations.

I appreciate this opportunity to share my thoughts and feedback on the recommended changes. I have outlined specific rules below for ease of review. I want to lead off by clearly noting that I support the passage of these rules, and my feedback is intended to build constructively from what has been proposed. It is critical to both licensees and the public that these initial rules be passed in a timely manner; hopefully my feedback is helpful as future iterations develop, refine, and improve regulations for behavioral health professionals in Texas.

From the Texas Register, April 24,2020 issue:

§882.1 "Application process" subsection (3) proposes standards regarding application timeframes that give concern for arbitrary differences drawn between member board types. There appears to be no explanation in the proposed rules as to why one of the licensee types is given only 90 days to complete applications, where the other licensee types have one year. It appears best that there be a single administrative standard regarding application timeframes provides equitable treatment of licensees from all member boards.

§882.30 “Display of License” subsection (b) proposes different standards regarding licensees of different member boards. This again causes concern regarding disparate treatment without any apparent explanation in the proposed rules as to why two of the licensee types may meet this requirement through an alternative method, but the licensees of the other two member boards cannot. As with the issue noted above, it again appears best if there was a single administrative standard applicable toward all licensees.

§882.32. “Duty to Update Name and Address” subsection (a) appears to require a licensee to be responsible for ensuring adequate record keeping for the licensing boards and Executive Council. It has been my experience that member boards seem to struggle to track submissions and process administrative paperwork in a timely fashion. To more clearly reflect the apparent intent of this rule it should be modified for the last sentence to read “It is the responsibility of the individual to provide agency the correct contact information for that individual.” A licensee can demonstrate they have provided information, they cannot make sure the agency does the right thing with it.

§882.36. “Compliance with State and Federal Law” seems to omit Family Code Chapters 104 and 107, both of which have provisions applicable to licensees of all member boards. While such forensic services are rarer, all licensees should be required to comply with all laws of the State of Texas. I fear without specifically naming these Family Code sections BHEC may run the risk that this goal will not be enforceable.

§882.50. “Continuing Education and Audits” subsection (b)(1) causes some significant concerns. An audit each month of 10% of all licensees will mean that, across the course of a year, essentially every licensee will be sampled (statistically many will be sampled more than once, with an outside chance some will not be sampled at all). This seems likely to create an unnecessary burden. It appears one option would be for BHEC to instead require annual submission of continuing education information if the goal is truly to audit at such a level. It may be this section was intended to establish a random audit, in any given year, of 10% of all licensees which seems like a far more reasonable process, and a simple edit is required.

§884.3. “Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations” is a section that has been needed for some time and I am pleased to see this included. The proposed changes should be adopted, and I am hopeful that future updates to rules can go further in addressing the complex adversarial nature of working with court-involved clients in areas other than evaluative work.. That said, it also appears some of these rules set an overly-high bar in some circumstances for clients who have been harmed by licensees.

In this difficult task BHEC should be commended for taking this first step to protect the public by insuring that competent forensic mental health professionals will be available when needed by court-involved clients. Too often complaints are used as “preemptive attacks” against professionals not because they have committed a licensing violation but because the litigating client is attempting to gain some sort of strategic advantage in court. The cost of such a scorched

earth approach to litigation (in time, effort, and expense) drives many competent professionals to avoid any type of interaction with court-connected clients. This has the knock-on result of creating a shortage of well-trained professionals willing to take on forensic work, forcing some clients to seek out subpar providers and the subpar work they perform. In order to ensure the public has access to quality providers willing to work with court-connected clients I am hopeful in the future BHEC will expand these rules to apply to all licensees working under court appointment.

That said, I am also hopeful in the future BHEC will look at expanding the options, particularly under Subsection (f), for client complaints to be heard as I fear what has been proposed currently may be overly restrictive. As someone who has served as an expert witness in scores of hearings, including many cases reviewing the work of court-appointed evaluators, in my experience it is very rare to see a court disqualify or strike an expert after having appointed them. Even when the expert has blatantly failed to meet not just the standard of care, but basic requirements set out in the Family Code and court appointment order, this impacts the weight the court gives to the expert rather than resulting in disqualification. When courts permit an expert to correct a defect by supplementing a report (a common cure when there is a deficiency found) or otherwise mitigating their errors, this does not remove the expert's failure to meet their ethical duty to have performed a competent job the first time around.

At a minimum I believe the language found in proposed 884.5(a) regarding a court finding of violation or other deficiency by the licensee should be incorporated as one of the possible criteria under Subsection (f). This, and other future additions, should maintain a focus on the appropriate primary location for litigants to address issues with experts – the court where their case is being heard – while providing better options to protect the public when there is a true error worthy of a licensing complaint.

✓ §884.12 “Complaint Disposition” is section I believe should be modified to require that BHEC shall solicit input from its member boards, rather than “may” do so. §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. From my understanding, BHEC was not developed to have any authority related to standard of care or ethical standards, and I believe therefore must be required to consult with the member boards regarding such issues.

I again appreciate all your hard work and effort on behalf of the citizens of Texas and those of us licensed to serve them. Even if my suggested revisions are not immediately possible, I encourage BHEC to pass the rules as drafted and implement updates in a subsequent iterations.

Sincerely,

A handwritten signature in black ink that reads "Aaron Robb". The signature is fluid and cursive, with the first name "Aaron" and last name "Robb" clearly distinguishable.

Aaron Robb, Ph.D., LPC-S



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jodie Elder <jodie_elder@hotmail.com>

Fri, May 22, 2020 at 11:59 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To the Behavioral Health Executive Council:

I respectfully submit the attached public comment on the proposed rules published in the April 24, 2020 issue of the Texas Register.

Sincerely,

Jodie Elder

Jodie Elder, PhD, LPC-S, LMFT
Public Policy Committee Co-Chair, Texas Counseling Association
TCA Liaison to the Texas State Board of Examiners of Marriage and Family Therapists



Comments on BHEC Proposed Rules_04.24.20.docx
18K**Brenda Skiff** <brenda@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:58 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Comments on BHEC Proposed Rules_04.24.20.docx
18K

• **General Provisions**

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

(d) (pick up from notebook)

Rationale: §507.153 of the Texas Occupations Code specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed, §881.20 (b) appears to be inconsistent with this statutory requirement. Replacing “must also” with “may only” reinforces and better aligns with the statute as well as legislative intent.

• **Complaints and Enforcement**

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: As set forth in §507.306 of the Texas Occupations Code, each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

• **Applications and Licensure**

SUBCHAPTER A – LICENSE APPLICATIONS

§882.6 Limitations on Number of Examination Attempts

~~(a) An applicant may take an examination administered or required by the Council no more than three times. Failure to pass an examination subject to this rule within three attempts, will result in an automatic denial of an application. The number of examination attempts allowed for applicants will be determined by the member board authorized to set those requirements.~~

Rationale: The examination required for each specific licensure are created using independent norming groups and have varied difficulty levels and expected pass rates. Consequently, each independent licensing board should retain the right to set rules regarding the number of times

licensees are allowed to sit for the exams before they are denied application and therefore entrance into the field.

§882.9. Established Application Processing Time

(a) The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

Rationale: Improving efficiency and expediting license processing are key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A consolidated report will not provide adequate transparency and detail, given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(c)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ (f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shed some light onto appropriate disaster response provisions for health care providers. This rule, as published, removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The proposed revision addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, they could have the opportunity to be issued an emergency license during a declared disaster.

885.1 Fees

Parties Opposed

Miriam Nisenbaum, LMSW
Traci Jordon, PsyD.
Fred Hansen, LPC
Jennifer Vasquez, LCSW
Kayla Sohns, LMSW
Domenica Domingue
Naomi Freifreich
Kristen Gonzalez
Michelle Zadrozny, LCSW-S
Laurie Stephens, LMSW-IPR
Gianna Viola, LCSW-S
Nancy Jo Long
Dallas Adams, LCSW-S
Diane M. Benefiel
Mikayla Knight
Leslie Billington
Charlotte B. Cooper, LCSW
Ann Marie Haney, LCSW
Cheryl Jones, LMSW
Shannon Huggins, LCSW-S
Ronald W. Prieto, LCSW
Catie Munguia
Claire Woll
Jessica Magee, TPA ED
Anita Franz, LCSW
Monica McCarthy
Suzanne Francis, LCSW
Lynn Panepinto, LMSW
Monique Rodriguez, LMSW
Katerine Rosato, LMSW
Linda Jackson, Ph.D.
JoAnn Formsby, Psy.D.
Joseph Hartsoe
Jillian Bissar, LCSW

Sydney Kroll Register, Ph.D.
David Hill, Psy.D.
Janet Finch, Ph.D., LCSW
Rebecca Cole, LCSW
Ginger Chun
Jennifer Delaine Taylor, LCSW
Steven L. Parks, LCSW-S
Susan Harnen, LCSW
Raena Williams
Jennifer Canning
Natalie Beck
Haley Williams
J.P. Kendrick
MaryAnn Kildebeck
Rose Mary Rodriguez
Elizabeth Hummert, LCSW
Emma Taylor, LCSW
Trey Johnson, LMSW
Linda Knewtson, LCSW
Anatasia Deeter, LCSW-S
Carol Ann Ross, LMSW
Rachel Slaymaker
Tara Ayala, LCSW
Virginia D. Manuel, LMSW-AP
Marcus Wade
Donna Tomlinson, LCSW
Jefferson Thomas
Pat Gleason-Wynn, Ph.D., LCSW
Charles Cox, Ph.D.
Rodney Smith
Dana Turnbull, Ph.D.
Robin J. Burks, Ph.D.
Jenifer McLuskie, LMSW



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC Rules Comments

2 messages

Miriam Nisenbaum <mnisenbaum@sbcglobal.net>

Fri, Apr 24, 2020 at 1:20 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

The 61 % increase in license renewal fees is excessive, a 25% increase would be more appropriate (107.00). Current renewal for LMSW is \$86.00 and proposed rates are \$ 141.00.

All other changes proposed seem in line with current practices.

Thanking you in advance for reviewing my comments.

Miriam Nisenbaum, LMSW, ACSW
Principal, Nisenbaum and Associates
<http://www.Nisenbaumandassociates.com>
mnisenbaum@sbcglobal.net

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 1, 2020 at 11:17 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comment on

1 message

Sydney Kroll Register <sydneykr@gmail.com>

Sun, Apr 26, 2020 at 3:50 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

In reviewing the proposed rule changes for the newly established BHEC I noticed that Psychologists are required to pay \$412 per biennium where LPAs pay \$230, LPCs pay \$106, LCSWs and LMSWs pay \$106, LMFTs pay \$136. Im concerned that psychologists are paying disproportionately more for to fund BHEC despite being the minority of licensees under BHEC. I'm concerned this can have a particularly inequitable impact in small business run by Psychologists, who are already impacted more due to COVID19 than other behavioral health providers due to the fact that only we are trained and required to perform many assessments and testing that require in-person examination. Please consider reviewing this issue-

Thank you!

Dr. Sydney Kroll Register

Pineywoods Psychological Services

--

Dr. Sydney Kroll



Brenda Skiff <brenda@tsbep.state.tx.us>

proposed TSBE rules

1 message

Traci Jordan <drtracijordan@yahoo.com>

Sat, Apr 25, 2020 at 7:25 PM

To: open.records@tsbep.texas.gov

In the Texas Register, the proposed rules for BHEC note Mr. Spinks determined no additional economic costs for the first 5 years. However, licensure fees for psychologists are substantially disproportionate and have a negative impact on every psychologist in practice in Texas. Psychologists are required to pay \$412 per biennium with upwards of \$200 for specialty certification in comparison to: LPAs \$230, LPCs \$106, LCSWs and LMSWs \$106, and LMFTs \$136.

Why are psychologists paying disproportionately more for to fund BHEC when we are an extreme numerical minority of licensees under BHEC? Until the fees are equalized, the proposed BHEC rules do have a negative impact on small businesses by charging psychologists considerably more than other licensees.

Thank you for your consideration.

Traci L. Jordan, Psy.D.
Clinical and School Psychologist



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC rules comment

1 message

David Hill <david@discovery-psych.com>

Sat, Apr 25, 2020 at 5:58 PM

To: OpenRecords <open.records@tsbep.texas.gov>

In the Texas Register, the proposed rules for BHEC note that Mr. Spinks referenced a benefit to licensees due to greater efficiency that will not have adverse economic effect on small businesses. At the same time, Mr. Spinks determined no additional economic costs for the first 5 years. However, I contend that the licensure fees are currently disproportionate and have a negative impact on every psychologist in practice in Texas. Psychologists are required to pay \$412 per biennium where LPAs pay \$230, LPCs pay \$106, LCSWs and LMSWs pay \$106, LMFTs pay \$136. Why are psychologists paying disproportionately more for to fund BHEC when we are an extreme numerical minority of licensees under BHEC? I think that everyone paying the same fees to fund BHEC and our various Boards is an equitable measure that should be instituted. Until the fees are equalized, the proposed BHEC rules do have a negative impact on small businesses by charging psychologists considerably more than other licensees.

Regards,
David Hill, PsyD
LP #36556



Brenda Skiff <brenda@tsbep.state.tx.us>

Fiscal Note

2 messages

Fred Hansen <Fred@lifemanagementresources.com>
To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Mon, May 4, 2020 at 7:12 PM

Mr. Spinks suggest there will be no increase in cost during the first five years. So why is the licensing cost going up precipitously for all licenses? Fred J. Hansen, LPC 16694

Get Outlook for iOS

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 4, 2020 at 7:22 PM

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Janet Finch <drjanfinch@gmail.com>

Tue, May 5, 2020 at 4:08 PM

To: open.records@tsbep.texas.gov

Comments on Proposed Rules 22TAC Chapter 881.

My name is Janet Finch, PhD, LCSW, and I am a **licensed social worker**. I have been in practice in Texas since 1982. I am also an LCSW Supervisor and a retired Faculty in the School of Social Work at UT Arlington.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Janet Finch, PhD, LCSW

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:49 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jennifer Vasquez <yogajena@gmail.com>

Tue, May 5, 2020 at 4:11 PM

To: open.records@tsbep.texas.gov

My name is Jennifer Vasquez and I am a licensed clinical social worker and PhD social work student. I am a full time Lecturer at Texas State School of Social Work and part time Lecturer at Lady of the Lake University School of Social Work.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Vasquez, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(e) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Jennifer Vasquez, LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Rebecca Cole <rebecca@rebeccacole.net>

Tue, May 5, 2020 at 4:13 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good Afternoon,

My name is Rebecca Cole and I am a **licensed clinical social worker**. I am a licensed clinical social worker for the Harris Center, the local mental health authority for Harris County, Texas. I provide crisis intervention paired with a licensed peace officer with Houston Police Department. I am the only social worker on my team. I take pride in my ability to provide this service to my community in my community and represent the social work field as well.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Rebecca Cole, LCSW

281-799-9416

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

- a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- ~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
- (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
- (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- ~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- ~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- ~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:
- (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.
- ~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.
- (g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- ~~(fh)~~ An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rule 22TAC Chapter 881

2 messages

Kayla Sohns <kayla.sohns@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 4:18 PM

My name is Kayla Sohns and I am a licensed social worker in Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Kayla Sohns, LMSW

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Ginger Chun <gmainchun@gmail.com>

Tue, May 5, 2020 at 4:43 PM

To: open.records@tsbep.texas.gov

My name is Ginger Chun and I am a student working on a master's degree in social work. I am already working in the social work field providing case management and mentorship to individuals experiencing homelessness as well as to families and individuals experiencing hardship.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ginger Chun

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(e)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)d~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)e~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)f~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)h~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

~

Ginger Chun
210-875-1392

"Be kind, it costs nothing"

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules

2 messages

Domenica (Domino) Domingue <pretty_domino@yahoo.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 4:49 PM

My name is Domenica Domingue and I am a **licensed social worker/social work student**. I work with dialysis patients in an outpatient setting as an LMSW providing patients with ways to cope with their normal and assist with getting insurance and transplants.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Domenica Domingue

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e)(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 8812 messages

Delaine Taylor <delaine@bliss-psychotherapy.com>

Tue, May 5, 2020 at 4:50 PM

To: open.records@tsbep.texas.gov

My name is Jennifer Delaine Taylor and I am a licensed clinical social worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.

Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Delaine Taylor, LCSW
Bliss Psychotherapy & Consulting
349 Keller Parkway
Keller, Texas 76248
T 817.382.2249
F. 817.541.4483
<http://www.bliss-psychotherapy.com>

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:51 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

NAOMI FREIREICH <naomifreireich@yahoo.com>

Tue, May 5, 2020 at 5:04 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Naomi Freireich and I am a **licensed social worker. I have a private practice in Austin and work with adults and adolescents struggling with mental health issues.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is

broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:51 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.2 messages

Steven Parks <thehealingplacetherapy@gmail.com>

Tue, May 5, 2020 at 5:10 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is **Steven Parks, LCSW-S** and I am a **licensed clinical social worker and supervisor**.

I specialize in treating children and adolescents with a severe trauma history. I also provide clinical supervision to licensees.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Steven L. Parks, LCSW-S, MBA, RPT-S

Steven L. Parks, LCSW-S, RPT-S, MBA
The Healing Place





Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Kristen Gonzalez <kristengonzalez10@yahoo.com>

Tue, May 5, 2020 at 4:03 PM

To: open.records@tsbep.texas.gov

My name is Kristen Gonzalez and I am a **social work student**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Kristen Gonzalez

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:51 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Harnden, Susan C <susan.harnden@austin.utexas.edu>
To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Tue, May 5, 2020 at 5:51 PM

ADVOCACY ALERT – Improve the Licensing Board!**Submit Comments before May 22, 2020**

The Texas Behavioral Health Executive Council (BHEC) established in **HB 1501** (86R) will become fully operational on September 1, 2020. All behavioral health licensing boards – including the Texas State Board of Social Work Examiners – will be housed at BHEC which will be responsible for the administrative management of each board, including processing licenses, managing complaints, and overall operations.

The proposed rules are extensive because they establish all functions for a brand new state agency. It is essential that these rules be carefully vetted to ensure they align with the legislative intent of HB 1501 and preserve the authority of each independent licensing board housed at BHEC.

The National Association of Social Workers - Texas (NASW-TX) along with the Texas Society for Clinical Social Work (TSCSW), the Texas Counseling Association (TCA), the Texas Association of Marriage and Family Therapists (TAMFT) and the Texas Psychological Association (TPA), was provided a preview of the proposed rules and an opportunity to provide stakeholder input at the December BHEC meeting. Many of our suggestions were adopted and are reflected in the published rules. **However, several important revisions were not made, including licensure fees.**

NASW/TX, in partnership with TCA, TSCSW, TAMFT and TPA, did a thorough review of the published rules and will be submitting a unified statement requesting additional, important changes.

We need your help!

A large volume of comments is needed. It is essential that all licensees review the proposed rules and submit comments.

The proposed rules were published in the April 24, 2020 issue of the Texas Register.

Please feel free to use **the email template** at the end of this email as well as any other revisions that you identify.

My name is Susan Harnden, I am a Licensed Clinical Social Worker at the University of Texas at Austin Employee Assistance Program. I serve the employees of the university.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that

BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.

2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Susan Harnden, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would-current practice~~, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would require~~ a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or

ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Susan Harnden, LCSW, CEAP | Director, *HealthPoint: Balance & Well-being in Work & Life* | pronouns: she/her | The University of Texas at Austin | UTA 1616 Guadalupe 2.304 | 512.471.3366 | Direct Line 471-9105

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:52 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Michelle Zadrozny <michelle.zadrozny@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 6:09 PM

My name is Michelle Zadrozny and I am a **licensed clinical social worker and board approved supervisor**. I co-own and manage A private practice at Plumeria Counseling center in AUSTIN.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Michelle Zadrozny, LCSW-S, EAS-C
Clinical Director, Plumeria Counseling Center
Branch Chair, NASW Capital Area

512-799-9348 Cell
www.plumeriacounseling.com
www.transformationalworkplace.com

Confidentiality Notice: This email is confidential. If the reader of this message is not the intended recipient, you are notified that any distribution or copying of this message is prohibited. If you have received this communication in error; please delete and immediately notify the sender by telephone or email.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:53 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Raena Williams <rgrantw36@gmail.com>

Tue, May 5, 2020 at 6:29 PM

To: open.records@tsbep.texas.gov

My name is Raena Williams and I am a **recent Master of Social Work graduates**. : I passed my licensure exam in February 2020 and due to Covid 19 I have not been able to practice or be provided an emergency temporary license to practice. I have an employer that would like to hire me to provide therapy to clients dealing with mental health/substance abuse. However due to the delayed response and lack of staff to review my case I am unable to see clients. I currently work as a case manager with Early Childhood Intervention. Please take my situation and others like mine into consideration.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Raena J. Williams, MSW

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:54 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments

2 messages

Laurie Stephens <lasstephens61@gmail.com>

Tue, May 5, 2020 at 6:39 PM

To: open.records@tsbep.texas.gov

My name is Laurie Stephens, LMSW-IPR and I am a hospice social worker in the Houston area.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Laurie Stephens, LMSW-IPR

TX 28933

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC draft rules

2 messages

Jen C <jennifercanning1979@gmail.com>
To: open.records@tsbep.texas.gov

Tue, May 5, 2020 at 6:50 PM

My name is Jennifer Canning and I am a social work student.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jennifer Canning

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE**§882.70. Emergency Temporary License.**

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g)(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Gianna Viola <giannaviola@gmail.com>

Tue, May 5, 2020 at 7:12 PM

To: open.records@tsbep.texas.gov

My name is Gianna Viola and I am a **licensed social worker (LCSW-S)** in Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Gianna Viola, LCSW-S, CGP

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection ~~(d)~~ of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(g)(i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Gianna Viola, LCSW-S, CGP

Viola Therapy, PLLC

Psychotherapy & Clinical Supervision

512.942.7798

giannaviola.com

Please note that email is not considered a secure medium; confidentiality cannot be ensured.

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:55 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Natalie Beck <natalie.d.beck@gmail.com>

Tue, May 5, 2020 at 7:22 PM

To: open.records@tsbep.texas.gov

Good afternoon,

My name is Natalie Beck and I am a Licensed Clinical Social Worker and Board-Approved Supervisor. I am a social work professor at a university here in Austin.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Natalie Beck

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ ~~may only~~ ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

NJ Long <njnljlong@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 12:16 AM

Hello,

My name is Nancy Jo Long and I have a masters in social work and I am a candidate for licensure in the State of Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Nancy Jo Long

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a)_____ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b)_____ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1)_____ the Governor declares a disaster under Government Code §418.014; and

(2)_____ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1)_____ the Governor declares a disaster under Government Code §418.014;

(2)_____ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)d)_____ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e)e)_____ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)f)_____ To be eligible for an emergency temporary license, an applicant must:

(1)_____ submit an application in the form prescribed by the Council; and

(2)_____ submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e)_____ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g)_____ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)h)_____ An individual practicing under an emergency temporary license must:

(1)_____ display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2)_____ provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3)_____ comply with all other applicable Council rules.

(g)i)_____ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Haley Williams <hbwilliams93@gmail.com>

Wed, May 6, 2020 at 9:04 AM

To: open.records@tsbep.texas.gov

Hello,

My name is Haley Williams and I am a licensed social worker. I work with college students, particularly those with learning disabilities and mental health issues.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Haley Williams

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE**§882.70. Emergency Temporary License.**

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g)(i) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Haley Williams

Texas Ex | Class of 2016

Master's of Social Work, University of Texas, 2018

Phone: 913-775-0512

hbwilliams93@gmail.com

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Dallas Adams <dadams@menninger.edu>

Wed, May 6, 2020 at 9:04 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Dallas Adams and I am a licensed social worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Dallas Adams, LCSW-S

Sincerely,

Dallas Adams, LCSW-S

Comprehensive Psychiatric Assessment and Stabilization

Menninger

713.275.5215

dadams@menninger.edu

CONFIDENTIALITY NOTICE: This electronic information is confidential and has been disclosed to the named recipient(s) and is intended only for the use of that person(s). This confidential information is protected under State, Federal, and JCAHO regulations. The sender neither intends to waive any privilege, nor to authorize further dissemination or copying of this information. If the reader is not the named recipient or

that person's authorized agent, or this information has been sent by inadvertence, please notify sender or the Menninger Office of Risk Management immediately, by telephone, 1-800-351-9058, for further requested action.

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

JP Kendrick <jpkendrick1@gmail.com>

Wed, May 6, 2020 at 9:06 AM

To: open.records@tsbep.texas.gov

My name is John Kendrick and I am a **licensed social worker/social work student**. *Optional: provide details about your job position and the clients you serve.*

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Best regards,

J.P. Kendrick

Sent from over here

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:57 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Diane Benefiel <dbenefiel@menninger.edu>

Wed, May 6, 2020 at 10:07 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To Whom It May Concern:

My name is Diane M. Benefiel and I am a licensed clinical social worker with supervision. I work at a psychiatric hospital in an inpatient unit. I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.

2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Diane M. Benefiel

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council shall may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ce) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

• **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council shall may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Diane M. Benefiel, LCSW, LCDC-I

Sr. Social Worker/Addictions Counselor

The Menninger Clinic



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

MaryAnn Kildebeck <MaryAnn@kildebeck.us>
 To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>
 Cc: MaryAnn Kildebeck <MaryAnn@kildebeck.us>

Wed, May 6, 2020 at 10:29 AM

My name is MaryAnn Brooks Kildebeck, LCSW, and I am a **licensed social worker/social work student**.
Optional: provide details about your job position and the clients you serve.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(e)f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

Rationale: §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

MaryAnn Kildebeck, LCSW

Direct: 972-377-6400

Fax: 855-856-6484

1015 West Oak Street

Denton, TX 76201

(In the Historic District, so no signage is allowed. This is a two-story brown brick building with a red tile roof.)

8668 John Hickman Pkwy. #905

Frisco, TX 75035

(At the NE corner of John Hickman and Legendary Drive. It is the SECOND building east of Legendary Drive.)

PO Box 1647

Denton, TX 76201

HAVE ALL MAIL SENT HERE

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 10:38 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Mikayla Knight <mikaylamarz02@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 10:34 AM

To whom it may concern,

Good morning. My name is Mikayla Knight and I am a **licensed social worker**. I am a Social Services Director at a Nursing and Rehabilitation facility in College Station, serving our community's vulnerable older adults, ensuring they rehab successfully and have a good quality of life as they live in our facility.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*
3. Licensing Times: As already mentioned, social workers experience extreme backlog on the licensing application and renewal process. This delay in timeliness results in loss of income, loss of opportunity, and also loss in motivation to pursue social work employment. *We also ask that BHEC address timeliness issues when granting new licenses and renewals, as this directly hurts our vulnerable populations who need social workers.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Mikayla Knight, (she/her/hers), LMSW
Master of Social Work- Texas State University 2019

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 10:39 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments BHEC draft rules

2 messages

Rose Mary Rodriguez <rmrod87@yahoo.com>

Wed, May 6, 2020 at 12:48 PM

To: open.records@tsbep.texas.gov

My name is Rose Mary Rodriguez from El Paso, Texas, and I am a **Licensed Clinical Social Worker**. I have been working with the Las Palmas Kidney Transplant Center for the last 3 years serving patients who are being evaluated for a kidney transplant or have already received a transplant. I have 40 years post-graduate experience in the areas of vocational rehabilitation, medical social work, and school social work addressing individuals with special needs.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged. I also bring to your attention that social worker's salaries are not adequate so any increase in licensing rates impact the decisions of trained social workers to remain in the profession as opposed to entering another sector of employment for better pay.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely

Rose Mary Rodriguez, LCSW/ C-ASWCM

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide

adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ ~~may only~~ ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b)

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments BHEC draft rules

appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 12:56 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Billington, Leslie <Leslie_Billington1@baylor.edu>
To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Wed, May 6, 2020 at 1:37 PM

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

My name is Leslie Billington and I am a **social work student in my last semester of graduate school. I am serving patients in Hospice care for my placement.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Leslie Billington

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 2:55 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Elizabeth Hummert <Elizabeth.Hummert@gpisd.org>
 To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Wed, May 6, 2020 at 3:34 PM

My name is Elizabeth Hummert and I am a Licensed Clinical Social Worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask *that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Elizabeth Hummert

LCSW - Supervisor #40267

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report

will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(e)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(d)f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As

proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Elizabeth "Liz" Hummert, LCSW, Clinical Supervisor

Student Mental Health and Safety Advisor

Grand Prairie ISD

972-522-7074



Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Wed, May 6, 2020 at 6:39 PM

[Quoted text hidden]

--

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Charlotte Cooper <charlwork1@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 3:45 PM

My name is Charlotte B. Cooper and I am a **licensed social worker**. I have worked in the Austin area for over 50 years. I contract with NASW/Texas to manage the Clinical Reimbursement Project. The Project assists Licensed Clinical Social Workers in independent practice with reimbursement issues and resources.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Charlotte B. Cooper, LCSW
4003 Ridgelea Drive
Austin, Texas 78731

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:01 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Taylor, Emma <Emma_Jones@baylor.edu>
To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Wed, May 6, 2020 at 4:14 PM

My name is Emma Taylor and I am an LCSW. I work as a therapist for children and adolescents with chronic illnesses, and I am also a faculty member and lecturer in an MSW program.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Emma Taylor, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and

appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(e)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ (f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ *may* solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ *may* specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed § 881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Emma Taylor, LCSW

Lecturer

Diana R. Garland School of Social Work

Baylor University - Houston Extension

Email: emma_jones@baylor.edu

4100 S. Main St.
Houston, TX 77002

Cell Phone: 713-907-4616

She, her, hers

Confidentiality Notice: The documents accompanying this Email transmission contains confidential information belonging to the sender that is legally privileged. This information is intended only for the use of the individual or the entity named above. If you are not the intended recipient, you are hereby notified that any disclosures, copying, distribution or the taking of any action in reliance on the contents of the email information is strictly prohibited.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:01 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

3 messages

Ann Marie Haney <amhaney@live.com>

Wed, May 6, 2020 at 4:24 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good afternoon,

My name is Ann Marie Haney, and I am a licensed clinical social worker. I provide outpatient behavioral health services at Hope Clinic, a Federally Qualified Health Center in Waxahachie, TX. We serve patients regardless of their ability to pay, providing increased access to care for our community.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ann Marie Haney, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

- a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for

each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

- (a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.
- ~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:
- (1) the Governor declares a disaster under Government Code §418.014; and
 - (2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.
- (c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:
- (1) the Governor declares a disaster under Government Code §418.014;
 - (2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and
 - (3) the applicant meets the requirements set forth herein below.
- ~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.
- ~~(e)(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.
- ~~(e)(f)~~ To be eligible for an emergency temporary license, an applicant must:
- (1) submit an application in the form prescribed by the Council; and
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.
- ~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.
- ~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.
- ~~(f)(h)~~ An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Mary Jo Kraus <maryjoannekraus@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 5:32 PM

My name is Dr. Mary Joanne Kraus and I am a **licensed clinical social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

I would like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Dr. Mary J. Kraus, LCSW
19206 Huebner Rd. #104
San Antonio, TX 78258
(v) 706-247-3515
(f) 210-499-4956
www.mjkfamilytherapy.com
maryjoannekraus@gmail.com

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:02 AM

Brenda Skiff
Public Information Officer/
Legal Assistant



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Trey Johnson <ctreyjohn@gmail.com>
To: open.records@tsbep.texas.gov

Wed, May 6, 2020 at 9:15 PM

My name is Trey Johnson and I am a licensed master social worker.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Trey Johnson, LMSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(gi)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must may only also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Cheryl Jones <chcjones@gmail.com>
To: open.records@tsbep.texas.gov

Thu, May 7, 2020 at 7:36 AM

Good morning,

My name is Cheryl Jones, LMSW and I am a licensed social worker in Dallas working for a social service agency full time and a local hospital system on the weekends.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Cheryl Jones, LMSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) ~~_____ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.~~

~~(a)(b) _____ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

~~(1) _____ the Governor declares a disaster under Government Code §418.014; and~~

~~(2) _____ the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.~~

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) ~~_____ the Governor declares a disaster under Government Code §418.014;~~

~~(2) _____ the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) _____ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f)(h) An individual practicing under an emergency temporary license must:

- (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would~~-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 8:03 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Linda Knewton <LKnewton@menninger.edu>

Thu, May 7, 2020 at 9:03 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Linda Knewton and I am a licensed clinical social worker employed at The Menninger Clinic in Houston. We serve patients with psychiatric illness.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature is a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Linda Knewton, LCSW

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional

counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) ~~_____~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would-current~~ practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing

standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Linda Knewtson, LCSW-S

Social Worker

CPAS

The Menninger Clinic

12301 Main Street

Houston, TX 77035

lknewtson@menninger.edu

Phone: 713-275-5078

Fax: 713-275-5490



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Shannon Huggins <shannon@shannonhuggins.com>

Thu, May 7, 2020 at 11:49 AM

To: open.records@tsbep.texas.gov

To Whom It May Concern:

My name is Shannon Huggins and I am a licensed clinical social worker and supervisor in private practice where I treat children and families as well as adults with psychiatric illness. I appreciate being able to provide the following comments on the Texas Behavioral Executive Council (BHEC) draft rules. I want to use this opportunity to improve the licensing board to better serve all social workers in the state. We need an efficient and skilled board to function at its highest capacity to help social work professionals meet the many needs of Texans, especially during the time of COVID-19.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points.

1) BHEC Discretion re: Emergency License - COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing.

2) Licensing Rates - It is disappointing to see that our social work licensing rate has increased. Social workers already struggle with immense backlogs and delays with licensing applications and renewals. As rates have increased, board responsiveness to critical licensing needs has decreased. I ask that BHEC rules keep social work licensing rates unchanged.

Thank you for allowing me to provide feedback on the BHEC rules. I look forward to working together to improve board processes for social work licensure.

Sincerely,
Shannon Huggins, LCSW-S, BCD

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) ~~the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster~~

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)(d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)(h)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(g)(i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

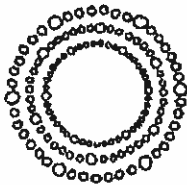
GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

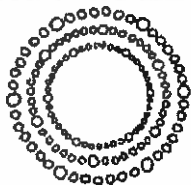
- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



SHANNONHUGGINS
LCSW-S•BCD

Psychotherapist and Board Approved Supervisor
Clinical Director Open City Psychotherapy
8133 Mesa Drive, Suite 104 Austin, TX 78759
Phone 512.538.0558 / Fax 512.538.0598
shannon@shannonhuggins.com / www.shannonhuggins.com

This email and its attachments may contain privileged and confidential information and/or protected health information (PHI) intended solely for the use of Shannon Huggins, LCSW-S, BCD and the recipient(s) named above. If you are not the recipient, or the employee or agent responsible for delivering this message to the intended recipient, you are hereby notified that any review, dissemination, distribution, printing, or copying of this email message and/or any attachments is strictly prohibited. If you have received this transmission in error, please notify the sender immediately at 512-538-0558 and permanently delete this email and any attachments.



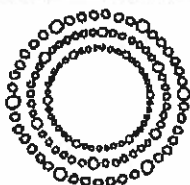
PastedGraphic-1.tiff
23K

SHANNONHUGGINS
LCSW-S•BCD

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Thu, May 7, 2020 at 12:05 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



PastedGraphic-1.tiff
23K

SHANNONHUGGINS
LCSW-S•BCD



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Deeter, Anastasia L. <aldeeter@texaschildrens.org>

Thu, May 7, 2020 at 11:33 AM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good morning,

My name is Anastasia Deeter and I am a Licensed Clinical Social Worker (LCSW). For the past five years I have worked at Texas Children's Hospital providing services to children and families. In my role I often provide crisis intervention, supportive counseling, psychosocial education, case management, and complete a variety of assessments. I also serve on our leadership team and assist with ensuring best patient practices, as well as coordinate all of our social work internship opportunities. In addition, I also serve as a Board Approved Clinical Supervisor.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommended and the sections covered. I would also like to highlight two important points.

1. BHEC Discretion re: Emergency License – COVID 19 has shown that social work licensure across states can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing rates – it is incredibly disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. For instance, I have one supervisee who is still waiting to hear back from the board on acknowledgement of their completion of LCSW supervision and approval to sit for their exam; it has been nearly four months. The students I work with often report it taking between two to six months, four months appearing to be average, to receive approval to sit for their LMSW examinations. We continue to see licensing rates grow without any changes to show for it. If I am to read the proposed rules correctly, I can assume that my renewal rates as an LCSW-Supervisor will increase by \$113 per renewal period, that is over \$55 increase per year. We ask that the BHEC rules to keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Anastasia

Anastasia Deeter, LCSW-S

Clinical Specialist- Student Programming
Instructor- Baylor College of Medicine

1102 Bates Ave, Ste 1930
Houston, TX 77030

Direct	Pager	Fax
832-824-0729	832-824-2099	832-825-6366



Affiliated with:



Applications & Licensure

SUBCHAPTER A- License Applications

882.9. *Established Application Processing Time*

A. The Council shall publish the minimum, maximum and median times for processing applications by by each license type during the preceding 12-month period on its website, together with a justification for each of the periods. These figures will be updated on an annual basis.

- a. **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G- Emergency Temporary License

882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a-b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) The Governor declares a disaster under Government Code 418.014; and

(2) The person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) the Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) The Governor declares a disaster under Government Code 418.014;

(2) The person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under 418.014 and issues a proclamation in accordance with the Government Code 418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(3) The Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(4) The applicant meets the requirements set forth herein below.

~~(b d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work with in the disaster designated by the governor.

~~(d f)~~ to be eligible for an emergency temporary license, an applicant must:

(1) Submit an application in the form prescribed by the Council; and

~~(2)~~ Submit written verification that the applicant is actively licensed, certified, or registered to practice marriage and family therapy, professional counseling, psychology, or social work in another jurisdiction and the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f h)~~ An individual practicing under an emergency temporary license must:

(1) Display a copy of the emergency temporary license in a conspicuous location when delivering services or provide written notification of the license number and instructions on how to verify the status of a license when initiation services with a patient or client;

(2) Provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) Comply with all other applicable Council rules.

~~(g i)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

Rationale: The unprecedented severity and magnitude of the current outbreak has shown some light on appropriate disaster response provisions for health care providers. The proposed language referring to practical agency discretion is far more restrictive than current practice, and arguably conflicting with Government Code 418.117. The suggested language addresses these concerns by codifying the license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has

a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, the BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B- Investigation and disposition of complaints

884.12 Complaint Disposition

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering contested enforcement matter if there are concerns about the standard of care or ethical practice showed by the licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

Rationale: One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in 507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practices required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standard therefore must be required to consult with member boards when these issues arise in context of enforcement matters. The benefits of engaging each board outweighs any potential processing delays. _

-

GENERAL PROVISIONS

-

SUBCHAPTER B- Rulemaking

881.20- Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each separate member board for anti-competitive impacts, administrative consistency, and good governance concerns

Rationale: 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Health Executive Council only for anti-competitive impacts, administrative consistency, and good governance. As proposed 881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as the legislative intent.

CONFIDENTIALITY NOTICE:

The information in this e-mail may be confidential and/or privileged. If you are not the intended recipient or an

authorized representative of the intended recipient, you are hereby notified that any review, dissemination, or copying of this e-mail and its attachments, if any, or the information contained herein is prohibited. If you have received this e-mail in error, please immediately notify the sender by return e-mail and delete this e-mail from your computer system. Thank you.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:33 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

roniprieto@elp.rr.com <roniprieto@elp.rr.com>

Thu, May 7, 2020 at 4:08 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Ronald W. Prieto and I am a Licensed Clinical Social Worker. I have just retired my position as Director of Case Management from an acute inpatient physical rehabilitation hospital, which I held for the past 20 years. Prior to that, I had ten years experience working in both inpatient and outpatient psychiatric settings. I began my work experiences before there was any licensure by the state of Texas. Thus, I am keenly aware of the need of having an efficient licensing board who is aware of the functions and scope of services for social workers.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Ronald W. Prieto, LCSW

APPLICATIONS & LICENSURE
SUBCHAPTER A – LICENSE APPLICATIONS
§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

~~(a)~~ For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)d)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

~~(g)~~ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Subject line: Comments on Proposed Rules 22TAC Chapter 881.

statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:33 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Carol Ann Ross <carolann@daringventures.com>
To: open.records@tsbep.texas.gov

Thu, May 7, 2020 at 3:49 PM

Dear Texas State Board representative,

My name is Carol Ann Ross and I am a **licensed social worker**. I work for a small group practice that serves individuals, couples and families impacted by addiction.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. **BHEC Discretion re: Emergency License** – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates:** It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Carol Ann Ross, LMSW, CSAT, CMAT

Therapist | Addiction Specialist

Daring Ventures, Counseling, Coaching and Consulting, LLC

Certified Sex Addiction Therapist

Certified Multiple Addiction Therapist

DaringVentures.com

1.855.602.2554



APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g)_____An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

~~(gi)~~ There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying_would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes_would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary_flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or

ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Regarding New Rules for the Texas Behavioral Health Executive Council

2 messages

Catie Munguia <catie.e.munguia@gmail.com>

Thu, May 7, 2020 at 5:04 PM

To: open.records@tsbep.texas.gov

My name is Catie Munguia and I am a licensed social worker in Nacogdoches, TX. I currently practice in a public elementary school, and am in the process of completing the supervision and practice requirements for the LCSW clinical license.

I really appreciate the opportunity to provide comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans. It should be noted that current processing times are unreasonably slow, which affects the availability of qualified professionals where we are needed in our state. I am hopeful that this new board will prove to meet the stated goals of drastically improving efficiency of license-related matters

I would like to highlight two important points:

BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion. This has become an extremely pertinent issue in the context of the current pandemic, in which "normal" provision of services has been turned on its head and the need for the services provided by mental health professionals has skyrocketed.

Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Catie Munguia

"Si quieres paz, lucha por la justicia"

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Rachel Slaymaker <rxw99a@acu.edu>

Thu, May 7, 2020 at 9:20 PM

To: open.records@tsbep.texas.gov

My name is Rachel Slaymaker, and I am a **licensed social worker. I am also a social work educator who helps prepare students for licensure in the State of Texas.** I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(bd) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

--
Rachel Slaymaker, LMSW, EdD Candidate

Associate Professor
Director of Field Education
Associate Director of the School of Social Work
Abilene Christian University
ACU Box 27866
Abilene, Texas 79699
325.674.2072 (main office)
325.674.2142 (direct ext)
www.acu.edu/socialwork

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 8:34 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Edits to HB 1501

2 messages

Claire Woll <clairemwoll@gmail.com>

Fri, May 8, 2020 at 10:58 AM

To: open.records@tsbep.texas.gov

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

My name is Claire Woll and I am a **licensed social worker providing counseling and mental health services to children, adolescents and young adults in Texas.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Claire Woll

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(e)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(ed) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(ef) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may ~~only~~ else review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed

§881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 11:18 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Tara Ayala LCSW <taraayalacsw@gmail.com>
To: open.records@tsbep.texas.gov

Fri, May 8, 2020 at 2:32 PM

My name is Tara Ayala_ and I am a **licensed social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Tara Ayala

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ ~~may only~~ ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed.

5/11/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881.

Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Sent from my iPhone

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Fri, May 8, 2020 at 2:30 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

TPA Public Comments

2 messages

TPA Executive Director <jessica@texaspsyc.org>

Fri, May 8, 2020 at 3:46 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

Cc: "kstewart@kcslawoffices.com" <kstewart@kcslawoffices.com>

Ms. Skiff:

Good afternoon. Please find attached TPA's letter regarding the proposed BHEC rules currently pending on the Texas Register. You'll see we reference a joint letter—it has not been submitted yet. Let me know if you have any questions.

Jessica Magee

Executive Director

Texas Psychological Association

Office: 512-528-8400

Toll Free: (888) 872-3435

**TPA Response to Fees_Register_5.8.20_FINAL.pdf**

220K

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 8, 2020 at 4:38 PM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

[Quoted text hidden]

--

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

**TPA Response to Fees_Register_5.8.20_FINAL.pdf**

220K



Texas Psychological Association

P.O. Box 163236, Austin, TX 78716

888.872.3435

www.texaspsyc.org

May 8, 2020

Via Open.Records@tsbep.texas.gov

Re: *BHEC Proposed Rules, published April 24 in the Texas Register*

Dear Ms. Skiff:

Thank you for the opportunity to comment on the Behavioral Health Executive Council's (BHEC) proposed rules currently pending in the *Texas Register*. In addition to the joint letter provided by the mental health associations regulated under BHEC regarding applications, licensure, complaints, and enforcement, the Texas Psychological Association (TPA) expresses concern regarding the proposed fee structure.

TPA acknowledges the proposed fee structure largely mimics psychologists' current fee structure. However, the current fee structure funded its stand-alone regulatory agency. With the creation of BHEC, disproportionate fees are no longer justifiable. Multiple mental health provider groups now fall under BHEC's regulatory umbrella, and economies of scale should have reduced costs. Yet these proposed fees require psychologists to bear a disproportionate portion of the cost.

While the proposed fee structure was not proposed with anticompetitive intent, the proposal will nevertheless have an anticompetitive impact. Requiring psychologists, in some cases, to pay quadruple what other providers will pay in fees disproportionately increases overhead costs for psychologists, which in turn will get passed to the client. Furthermore, the Executive Council is composed of individuals who represent the remaining mental health professional boards whose licensed providers would directly benefit from psychologists' high fees, which would keep their fees low.

It has been explained that changing the fees substantially at this time may trigger Administrative Procedures Act provisions that would require the rule to be proposed again. We do not want to create a situation where the agency is unable to collect fees at the time of its establishment. However, given that this rule would have an anticompetitive effect, result in an administrative inconsistency, and raise concerns relating to good governance practices, we ask that BHEC make the equalization of fees a priority after these rules are adopted. We appreciate the Executive Council's intent to examine this issue in subcommittee.

A copy of this letter will be submitted to the Governor's Regulatory Compliance Division, which has commenced review of this particular rule and is currently accepting public comments. Thank you for your attention to this matter.

Sincerely,

Jessica Magee

Jessica Magee
Executive Director, TPA





Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Virginia Manuel <v.manuel.msw@gmail.com>

Fri, May 8, 2020 at 7:24 PM

To: open.records@tsbep.texas.gov

My name is Virginia D. Manuel, LMSW-AP and I am a **licensed social worker**. In my 43 years of practice, I have always worked in public or non-profit organizations which serve the lowest income individuals in Texas.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Virginia D. Manuel, LMSW-AP

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical

delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:~~

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)d~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(df)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed § 881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

National Association of Social Workers, Texas Chapter (NASW/Texas)

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Anita Franz <anitafranzlcs@gmail.com>

Fri, May 8, 2020 at 8:44 PM

To: open.records@tsbep.texas.gov

My name is Anita Louise Franz, and I am a **licensed clinical social worker** providing play therapy to children ages 3 - 11.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Anita Louise Franz, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)d~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)f~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)h~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Anita Louise Franz, LCSW
13706 Research Blvd Ste. 205
Austin, TX 78750

anitafranzlcsw@gmail.com
512-765-5705

****Please be aware that e-mail--and any form of electronic communication--is Social not a secure or confidential means of sending information. Be cautious when disclosing sensitive or private materials, as your message becomes the property of third parties (your server and your recipient's server). If you receive this or any e-mail communication in error, please contact the sender immediately and delete the message and any attachments/files. Copying, disclosing, or distributing the content of such electronic messages is prohibited.****

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Marcus Wade <mwade75705@yahoo.com>

Sat, May 9, 2020 at 8:54 AM

To: open.records@tsbep.texas.gov

My name is __Marcus Wade____ and I am a **licensed social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

Marcus Wade LCSW

Brenda Skiff <brenda@tsbep.state.tx.us>

Mon, May 11, 2020 at 8:16 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Improving the Texas Behavioral Health Executive Council (BHEC)

1 message

Monica McCarthy <mrmccarthy4@gmail.com>

Sat, May 9, 2020 at 1:54 PM

To: open.records@tsbep.texas.gov

To Whom it May Concern,

My name is Monica McCarthy I am a **Licensed Master Social Worker**. I currently work as a Program Specialist to the Texas Section 811 Project-Based Rental Assistance Program, which provides rental assistance to over 400 adults with disabilities and their households, allowing them to live in the community instead of an institution.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Monica McCarthy

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

(b)(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

(ee) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

(df) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

--

Monica McCarthy, LMSW

Pronouns: she/her/hers

Email: mrmccarthy4@gmail.com

Phone: 847-477-6986



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapten 881.

1 message

Donna Tomlinson <dtomlinson2032@gmail.com>

Mon, May 11, 2020 at 11:29 AM

To: open.records@tsbep.texas.gov

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

My name is __Ddnna Tomlinson LCSW and I am a **licensed social worker/social work student**. *Optional: provide details about your job position and the clients you serve.*

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

Donna Tomlinson LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Suzanne Francis <suzeqf@gmail.com>

Mon, May 11, 2020 at 1:12 PM

To: open.records@tsbep.texas.gov

My name is Suzanne Camos and I am a **Licensed Clinical Social Worker here in the State of Texas.**

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged, at the very least until improvements can be made to the process.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Suzanne Camos, LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comment for Proposed Rules §882.1 Application Process and §885.1 Executive Council Fees

1 message

Jefferson Thomas <jeffthom1776@gmail.com>
To: Open.Records@tsbep.texas.gov

Mon, May 11, 2020 at 2:08 PM

Subsection 882.1(1) appears to conflict with subparagraph 885.1(a)(1), presuming the "incorrect fee" in 882.1(1) is "returned to the applicant" along with the application.

§882.1 Application Process

Applications for licensure are processed in the following manner:

(1) Applicants must submit for review an official application form, the corresponding application fee, and all information required by law to the Council. The responsibility for submitting a complete application resides solely with the applicant. An application submitted with the incorrect fee amount will be returned to the applicant.

§885.1 Executive Council Fees

(a) General provisions.

(1) All fees are nonrefundable and cannot be waived except as otherwise permitted by law.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Lynn Panepinto <lpnepinto@utexas.edu>

Mon, May 11, 2020 at 2:29 PM

To: open.records@tsbep.texas.gov

Hello,

My name is Lynn Panepinto and I am a **licensed master social worker (LMSW)** in Austin. I work as a bilingual counselor with survivors of violence and abuse at a nonprofit organization.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. **BHEC Discretion re: Emergency License** – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates:** It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Lynn Panepinto, LMSW

Pronouns: she/her/hers

MSSW, School of Social Work

MA, Lozano Long Institute of Latin American Studies

lpnepinto@utexas.edu

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not

provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. Emergency Temporary License.

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)~~(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under § 418.014 and issues a proclamation in accordance with of the Government Code § 418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~(d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(d)~~(f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.

~~(e)~~ For purposes of subsection ~~(d)~~ of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~(h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council shall ~~may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council shall ~~may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** § 507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed

§881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 8812 messages

Pat Gleason-Wynn <drpgw@yahoo.com>

Mon, May 11, 2020 at 7:24 PM

Reply-To: Pat Gleason-Wynn <drpgw@yahoo.com>

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Pat Gleason-Wynn, PhD, LCSW. I am a Licensed Clinical Social Worker who works with older adults and their caregivers both in the community and in healthcare. I have been a social worker for 40 years.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need **an efficient and skilled board** to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. **Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.**

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

NAME

Pat Gleason-Wynn, PhD, LCSW, CSW-G
5009 Sheridan Court, Arlington, TX 76017

APPLICATIONS & LICENSURE**SUBCHAPTER A – LICENSE APPLICATIONS****§882.9. Established Application Processing Time**

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(a)~~ (b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(e)~~ (f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(f)~~ (h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Pat Gleason-Wynn, PhD, LCSW, CSW-G

Happiness does not depend on accumulating more things, but on the mindset we have concerning the things we already do possess. Fulton Sheen, Finding True Happiness

Brenda Skiff <brenda@tsbep.state.tx.us>

Tue, May 12, 2020 at 9:06 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Monique Rodriguez <mrodriguez@combinedarms.us>
To: open.records@tsbep.texas.gov

Wed, May 13, 2020 at 3:03 PM

Hello,

My name is Monique Rodriguez and I am a Licensed Master Social Worker licensed in Texas. I have recently been promoted to the El Paso Regional Manager as our organization has expanded from Houston to the El Paso community. The clients I serve include active duty service members, veterans, Reservists, National Guardsmen, caregivers, and their families (SMVF). I also serve organizations that serve SMVF from nonprofit, local, state, and federal agencies. We are a backbone collaborative organization that connects clients to quality organizations that can meet their needs. Furthermore, I work on several committees that focus on addressing veteran suicide and have written reports on veteran issues.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

- BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
- Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with an intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Monique Rodriguez, LMSW

Monique Rodriguez, LMSW

El Paso Regional Manager

Combined Arms

**COMBINED
ARMS**

Email Disclaimer: This message contains information that may be confidential or privileged. The information is intended solely for the recipient and its use by any other party is not authorized. If you are not the intended recipient, be aware that any disclosure, copying, distribution or use of the contents of this information is prohibited. Please notify the sender if you received this email in error and delete the original. Thank you.

(832) 285-9531

mrodriguez@combinedarms.us

combinedarms.us

2929 McKinney St., Houston, TX 77003



Brenda Skiff <brenda@tsbep.state.tx.us>

Comment About BHEC Proposals

1 message

Charles Cox <clcpd@drcharlescox.com>

Sat, May 16, 2020 at 9:36 PM

To: Open.Records@tsbep.texas.gov

Attached is a letter of comment about the proposed BHEC rules, specifically the fees assessed to various mental health professionals.

Best Regards,
Charles Cox, Ph.D.

Charles L. Cox, Ph.D., P.A.
77 Sugar Creek Center Blvd., Ste. 375
Sugar Land, TX 77478

281-265-4566
www.DrCharlesCox.com

In compliance with HIPAA, this email and any files transmitted with it are confidential and intended solely for the use of the individual or entity to which it is addressed and may contain confidential information. If you are not the named addressee you should not disseminate, distribute or copy this email. Please notify the sender immediately by email if you have received this message by mistake and delete the email and any attachments from your system. If you are not the intended recipient you are notified that disclosing, copying, distributing or taking any action in reliance on the contents of this information is strictly prohibited.

 **BHEC Letter.pdf**
85K

Charles L. Cox, Ph.D., P.A.

Clinical Psychology

77 Sugar Creek Center Blvd., #375
Sugar Land, TX 77478

Office 281.265.4566
www.DrCharlesCox.com

May 16, 2020

Via Open.Records@tsbep.texas.gov

Re: BHEC Proposed Rules, published April 24 in the Texas Register

Dear Ms. Skiff,

Thank you for the opportunity to comment on the Behavioral Health Executive Council's (BHEC) proposed rules currently pending in the *Texas Register*.

As a Clinical Psychologist licensed to practice in the Great State of Texas, I will admit to being stunned upon review of the fee structure proposed by the BHEC both for Application for Licensure and for Renewal of Licensure. Having never looked at the fees paid by other mental health professions, I was not aware of the large difference between psychologists and non-psychologists.

Upon looking at the fee structure, the application fee to become licensed as a psychologist is two - three times higher for prospective psychologists than for other professions governed by BHEC. The fee to renew a license as a psychologist is over three (3!) times the cost to renew any other license. WOW!

The fact that this discrepancy has existed for a long time escaped my notice. I (naively) assumed that the mental health professions all paid the same fee to renew a license, and I never looked at what other professions are taxed.

Having seen this discrepancy, I now ask, "Why?" BHEC performs the same oversight for all mental health professions. Do psychologists somehow receive three times the services of other professions? I thought that a central purpose of forming BHEC was to standardize the operations of these professions which should equalize fees. Why should psychologists bear a heavier load?

It is time, at the start of BHEC, for these inequalities to be erased.

Respectfully yours,

Charles L. Cox, Ph.D.
Clinical Psychologist



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

1 message

Katie Rosato <katrosato80@gmail.com>

Mon, May 18, 2020 at 6:09 PM

To: Open.Records@tsbep.texas.gov

My name is Katherine Rosato and I am a **licensed social worker**.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Katherine Rosato LMSW

§881.13. Conduct and Decorum. (Would strike all three provisions)

~~(a) Persons having business with or interacting with the Council, member boards, or agency staff shall conduct themselves with proper dignity, courtesy, and respect. Disorderly or disruptive conduct will not be tolerated. (This does not define "dignity, courtesy, and respect. All of which, can vary by cultural orientation. This is too vague)~~

~~(b) The presiding officers for the Council and member boards may, in their own discretion, exclude from a meeting or proceeding, a person who, with intent to prevent or disrupt an agency meeting or proceeding, obstructs or interferes with the meeting or proceeding by physical action or verbal utterance. A person excluded under this rule may be excluded for the remainder of the meeting or proceeding or for a shorter period of time as is deemed just and reasonable by the presiding officer. (This restricts a citizen's right to participate based on undefined terms.)~~

~~(c) Conduct or language directed at agency officials or staff by applicants or licensees that a reasonable person would find abusive or threatening is considered unprofessional conduct and may serve as grounds for a Council-initiated complaint and disciplinary action. (Too much discretion to act based on an undefined criteria.)~~

§882.26. Authorized Practice of Psychology Without a License.

(a) Notwithstanding Rule §882.23 of the chapter, the activities or services described in §501.004 of the Psychologists' Licensing Act are exempt from the Council's jurisdiction and do not require a license.

(b) The activity or service of a post-doctoral fellow or resident in psychology is exempt from the Council's jurisdiction pursuant to §501.004(a)(2) of the Psychologists' Licensing Act if all of the following criteria are met:

(1) The person is enrolled in a formal post-doctoral program that is:

(A) accredited by the American Psychological Association (APA) or is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or

(B) substantially equivalent to a program described in subparagraph (A) of this paragraph ;

(2) The activities or services take place under qualified supervision and are part of the formal post-doctoral program; and

(3) The person is designated as a psychological intern or trainee, or by another title that clearly indicates the person's training status.

(c) A formal post-doctoral program which meets the following criteria will be considered substantially equivalent to an APA accredited or APPIC member program:

(1) An organized experience with a planned and programmed sequence of supervised training experiences.

(2) A designated psychologist responsible for the program who possesses expertise or competence in the program's area.

(3) ~~Two or more~~ At least one licensed psychologists on staff, at least one designated as supervisor with expertise in area of practice. A designated supervisor may be the only psychologist on staff. (Having at least two psychologists on staff guarantees no greater learning than one. Improves access to healthcare for citizens if an internship can occur in a program that only has one supervisor on staff and that person may supervise post-doctoral training through creating opportunity for more internships. It does not eliminate the need for the training program to be formal. As originally written, this limits opportunities for post-doctoral training)

(4) A minimum of 2 hours per week of ~~face-to-face~~ supervision. (effective supervision can occur through the use of technology assisted interactions)

The increased costs are of concern: The council is raising the cost across all licensees to cover costs generated specifically by the Psychology Board. The Psychology specific expenses should stay contained within those licensees.

This proposed rule will increase application fees for the following license types: Licensed Baccalaureate Social Worker (LBSW) and Licensed Master Social Worker (LMSW) applications will increase by \$29; Licensed Clinical Social Worker (LCSW) applications will increase by \$29; Social Worker supervisor status applications will increase by \$30; initial Licensed Marriage and Family Therapist (LMFT) associate applications will increase by \$29; LMFT by endorsement applications will increase by \$31; LMFT supervisor status applications will increase by \$30; Licensed Professional Counselor (LPC), LPC intern, and provisional license applications will increase by \$31; and LPC supervisor status applications will decrease by \$50. This proposed rule will increase renewal fees for the following license types: LBSW and LMSW renewal applications will increase by \$61; LMSW advanced practitioner and LCSW renewal applications will increase by \$63; LMFT and LMFT associate renewal applications will increase by \$11; LPC renewal applications will increase by \$41; LPC supervisor status renewal applications will decrease by \$50; and Licensed Specialist in School Psychology renewal applications will increase by \$21. This proposed rule will create a new fee for the renewal of supervisor status for social workers which will be \$50.



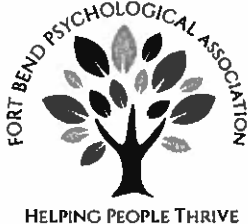
Brenda Skiff <brenda@tsbep.state.tx.us>

Re: BHEC Proposed Rules, published April 24 in the Texas Register

2 messages

Linda Jackson <drlindajackson@gmail.com>
To: Open.Records@tsbep.texas.gov

Mon, May 18, 2020 at 1:35 PM



May 18, 2020

Via Open.Records@tsbep.texas.gov

Brenda Skiff

Public Information Officer

Texas State Board of Examiners of Psychologists

Dear Ms. Skiff,

Thank you for the opportunity to comment on the Behavioral Health Executive Council's (BHEC) proposed rules currently pending in the *Texas Register*.

As a Licensed Psychologist in Texas and as President of the Fort Bend Psychological Association, I am expressing our concerns about the fee structure proposed by the BHEC both for Application for Licensure and for Renewal of Licensure. The current fee structure originated from funding its past stand-alone regulatory agency (Texas State Board of Examiners of Psychologists). However, now that Psychologists are subsumed under BHEC, we should have the same application and renewal fees as other professionals regulated by the agency.

Presently, the application fee to become licensed as a Psychologist is two - three times higher for prospective Psychologists than for other professions governed by BHEC. The fee to renew a license as a Psychologist is over three times the cost to renew any other license which is clearly not equitable.

We ask that you review our concerns and adjust the fee structure to be fair to Psychologists.

Kind Regards,

Linda J. Jackson, Ph.D.

Clinical Psychologist

President, Fort Bend Psychological Association

www.fortbendpsych.com

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 18, 2020 at 10:29 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700

[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC Proposed Rules, published April 24 in the Texas Register

2 messages

Dana B. Turnbull <Dana@drdanaturnbull.com>

Mon, May 18, 2020 at 11:12 AM

To: Open.Records@tsbep.texas.gov

Dear Ms. Skiff:

Thank you for the opportunity to comment on the Behavioral Health Executive Council's (BHEC) proposed rules currently pending in the Texas Register.

I am concerned about the proposed fee structure. With the creation of BHEC, disproportionate fees are no longer justifiable. Multiple mental health provider groups now fall under BHEC's regulatory umbrella, and economies of scale should have reduced costs. Yet these proposed fees require psychologists to bear a disproportionate share of the cost. WHY???

The answer is clearly anticompetitive intent with an anticompetitive impact. Requiring psychologists to pay double, triple, and quadruple what other providers will pay disproportionately increases overhead costs for psychologists. Psychologists ALREADY have to pay more for school and attend longer with more supervision. WHY CONTINUE THIS DISCRIMINATION?

CLEARLY, someone OTHER THAN PSYCHOLOGISTS will benefit! The Executive Council is composed of individuals who represent the remaining mental health professional boards whose licensed providers would directly benefit from psychologists' high fees! It has been explained that changing the fees substantially at this time may trigger Administrative Procedures Act provisions that would require the rule to be proposed again. NOT MY PROBLEM!! THIS DISCRIMINATION SHOULD HAVE BEEN CAUGHT AT THE OUTSET!!

Still- why weren't the fees of the other professions INCREASED to match the fees of Psychologists?? Then the support of the BHEC would be an equal investment for all licensees. TSBEP was the only board who wasn't BANKRUPT! Wouldn't it make sense to use TSBEP's fee structure as an example for the other boards to MATCH?? How is this not ANTI-COMPETITIVE DISCRIMINATION???

Moreover, why aren't the fees of psychologists LOWER than the fees of the other licensees? One could argue that we have a reduced risk of violation of rules because our education and experience is so much higher! We are already double and triple vetted by our educational and experiential standards which are DOUBLE that of master's level providers. One could argue that because there are only 4,775 psychologists in Texas compared to 53,804 other licensees under BHEC umbrella (20,933 counselors; 5,900 LCDCs; 2,813 LMFTs; 11,134 LMSWs; 4,516 LBSWs; and 8,508 LCSWs among others) we would receive proportionally FEWER SERVICES than the other agencies regulated by BHEC and so therefore should PAY LESS because we RECEIVE LESS!!

Given that this rule would have an anticompetitive effect, result in administrative inconsistency, and raise concerns relating to good governance practices, I ask that BHEC make the equalization of fees a priority NOW. If not NOW, then IMMEDIATELY after these rules are adopted!!

Sincerely,

Dana Turnbull, Ph.D.

H. E. B. Behavioral Medicine

305 Miron Drive

Southlake, TX 76092

817.571.2899

817.571.9879 (fax)

<http://drdanaturnbull.com/>

<https://www.TherapyAppointment.com>

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 18, 2020 at 10:31 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC letter

2 messages

Jo Ann Formby <joannformby@hotmail.com>

Mon, May 18, 2020 at 3:18 PM

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Ms Skiff,

Please see attached letter.

Thank you,

Dr. Jo Ann Formby

**BHEC fee letter.docx**

13K

Brenda Skiff <brenda@tsbep.state.tx.us>

Tue, May 19, 2020 at 8:45 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff

Public Information Officer/

Legal Assistant

Texas State Board of Examiners of Psychologists

333 Guadalupe, Ste 2-450

Austin, TX 78701

512-305-7700

[Quoted text hidden]

**BHEC fee letter.docx**

13K

To: TSBEP and Brenda Skiff (via open.records@tsbep.texas.gov)

Re: BHEC fee discrepancies

From: Jo Ann Formby, PsyD, Licensed Psychologist, joannformby@hotmail.com

Date: 5/18/2020

Dear Ms. Skiff:

Thank you for the opportunity to comment on the Behavioral Health Executive Council's (BHEC) proposed rules currently pending and published in the **Texas Register**.

I am a Clinical Psychologist licensed to practice in the State of Texas. Upon recent review of the fee structure proposed by the BHEC, both for application for licensure and renewal of licensure, I was quite surprised to see the significant fee disparity between psychologist fees and those of other licensed mental health professionals. Upon looking at the fee structure, the application fee to become licensed as a psychologist is two- three times higher for prospective psychologists than for other professions governed by BHEC. And the fee to renew a license as a psychologist is over three times the cost of any other license renewal. The fact that this discrepancy has existed for some time had escaped my notice. Licensed psychologists, and those applying for licensure, are significantly overcharged.

The current fee structure funded the stand-alone regulatory agency for psychologists, namely, TSBEP. With the creation of BHEC, disproportionate fees are no longer justifiable since the purpose of BHEC is to standardize operations of these mental health professions. A logical next step would be to equalize fees.

Now, at the inception of the BHEC, is a good for these inequalities to be eliminated. My request to TSBEP and BHEC is that fee discrepancies be erased and that psychologists' fees be lowered and made equally proportionate to the other licenses regulated by the BHEC.

Respectfully yours,

Jo Ann Formby, PsyD

Licensed Psychologist



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC Proposed Rules, Published April 24 in Texas Register

2 messages

rjburks@swbell.net <rjburks@swbell.net>

Wed, May 20, 2020 at 2:59 PM

To: Open.Records@tsbep.texas.gov

Cc: rjburks@swbell.net

May 20, 2020

Via Open.Records@tsbep.texas.gov

Brenda Skiff

Public Information Officer

Texas State Board of Examiners of Psychologists

Dear Ms. Skiff,

I appreciate the opportunity to comment on the BHEC proposed rules currently pending in the Texas Register.

As a licensed psychologist in Texas and a former president of the Houston Psychological Association, I am expressing concerns about the fee structure proposed by the BHEC for both application and renewal of licensure. This fee structure was in place when TSBEP was a stand alone regulatory agency (TSBEP). However, now that psychologists have been subsumed under BHEC, the fees should be brought in line with the masters' level mental health professionals. It makes no sense for psychologists to be carrying the financial burden of the entire group by paying two to three times as much in licensure fees, especially when the psychologists' and TSBEP was the board that has been streamlined in the past by being efficient and not having any issues prior to being forced to operate under BHEC's umbrella.

I would deeply appreciate strong consideration being given to making the fees more consistent among the various mental health groups. Thank you in advance for your consideration of this request.

Sincerely,

Robin J. Burks, Ph.D.

Clinical Psychologist

950 Echo Lane, Suite 335

Houston, Texas, 77024

713-465-8560

www.robinburks.com



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 8812 messages

Joe K. Hartsoe <joehartsoe@gmail.com>

Thu, May 21, 2020 at 10:16 AM

To: open.records@tsbep.texas.gov

To Whom It May Concern:

My name is Joseph Hartsoe and I am a social work student who has graduated and waiting for my license to be issued any day. My previous experience and future area of practice is working with youth in the school setting to provide social and emotional support with education to enhance their functioning, increase matriculation, and entrance into the Texas society as contributing members to our communities.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. Our profession continue to see licensing rates grow without any change to show for it. I ask that BHEC rules keep our rates unchanged.
 1. The renewal fee on LMSW/LCSW licenses is of particular concern when compared to the renewal fee of LPC's. LMSW practitioners do not have the same independent practice authority as LPC holders but yet, your proposed plan outlines that the two be charged the same rate for their license renewal each cycle.
 2. Further, it is unfortunate to see that LCSW practitioners are required to pay more than LPCs for their license renewal. LCSW's traditionally offer comparable services in psychotherapy and independent practice authority, yet, the board's current proposal state that LCSW's be charged more for their license renewal compared to their LPC colleagues.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Joseph Hartsoe

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(f)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another

jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

(e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) _____ An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(fh) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(gi) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying ~~would-current~~ practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes ~~would~~ require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary ~~flexibility~~ to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 *Complaint Disposition.*

(c) The Council ~~shall may~~ solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall may~~ specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS**SUBCHAPTER B – RULEMAKING****§881.20** *Rulemaking by Executive Council*

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Brenda Skiff <brenda@tsbep.state.tx.us>
To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Mon, May 25, 2020 at 8:56 PM

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Subject line: Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jenifer McLuskie <jmcluskie@sbcglobal.net>

Tue, May 5, 2020 at 4:10 PM

Reply-To: Jenifer McLuskie <jmcluskie@sbcglobal.net>

To: "open.records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

My name is Jenifer McLuskie I am a **licensed social worker (LMSW)** and I am a supervisor of four caseworkers who all work within social services to help undocumented children who have left immigration detention facilities and one caseworker who assists families who have exited family or other immigration detention facilities as they seek asylum in the United States.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jenifer McLuskie, LMSW (Texas) and LGSW (District of Columbia)

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. *Established Application Processing Time*

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide

adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

~~(e)(b)~~ A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(bd)~~ An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(ee)~~ An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(ef)~~ To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e)~~ For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

~~(fh)~~ An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

- (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
- (3) comply with all other applicable Council rules.
- (g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b)

appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.

Jenifer McLuskie

Brenda Skiff <brenda@tsbep.state.tx.us>

Wed, May 6, 2020 at 9:50 AM

To: Patrick Hyde <general.counsel@tsbep.state.tx.us>

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701
512-305-7700
[Quoted text hidden]



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881.

2 messages

Jillian Bissar <jillianbissar@gmail.com>

Wed, May 6, 2020 at 12:31 PM

To: open.records@tsbep.texas.gov

My name is Jillian Bissar, LCSW and I am a **licensed social worker/social work student**. I work with cancer patients at one of the top cancer hospitals in the country right here in the great state of Texas. Our patients are come from all over the country and world to receive care at our facility.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. We ask that BHEC rules keep our rates unchanged.

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Jillian Bissar, LCSW

APPLICATIONS & LICENSURE

SUBCHAPTER A – LICENSE APPLICATIONS

§882.9. Established Application Processing Time

a. The Council shall publish the minimum, maximum and median times for processing applications by each license type during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.

- **Rationale:** One of the key features contemplated by the Legislature in creating the Texas Behavioral Health Executive Council is to improve efficiency and to expedite license processing. Collecting data by each license type will help evaluate the achievement of that goal and promote the appropriate allocation of BHEC resources. A composite report will not provide adequate and appropriate transparency given the historical delays in the processing of each license type for each mental health professional category.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

§882.70. *Emergency Temporary License.*

(a) For purposes of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.

(a)(b) A person may practice marriage and family therapy, professional counseling, psychology, or social work in this state to render aid in an emergency or disaster if:

(1) the Governor declares a disaster under Government Code §418.014; and

(2) the person has a license, certificate, or registration that is in good standing issued by any state or political subdivision of any state.

(c) The Council ~~shall~~ may issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:

(1) the Governor declares a disaster under Government Code §418.014;

(2) the person has a license, certificate, or registration that is not in good standing issued by any state or political subdivision of any state; the Governor declares a disaster under §418.014 and issues a proclamation in accordance with of the Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster

(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein below.

~~(b)~~ (d) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.

~~(e)~~ (e) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.

~~(f)~~ (f) To be eligible for an emergency temporary license, an applicant must:

(1) submit an application in the form prescribed by the Council; and

(2) submit written verification that the applicant is actively licensed, certified, or registered to practice psychology, marriage and family therapy, professional counseling, or social work in another jurisdiction ~~and that the licensure, certification, or registration is in good standing.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on that out-of-state license, certification, or registration.~~

(g) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.

(f) (h) An individual practicing under an emergency temporary license must:

(1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;

(2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and

(3) comply with all other applicable Council rules.

(g) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.

- **Rationale:** The unprecedented severity and magnitude of the current outbreak has shown some light onto appropriate disaster response provisions for health care providers. The proposed language removes practical agency discretion, is far more restrictive than current practice, and arguably conflicts with Government Code §418.117. The suggested language addresses these concerns by codifying would-current practice, which is to allow out-of-state licensees in good standing to practice without an emergency license. The recommended changes would require a licensee who is not in good standing to seek approval from the BHEC for an emergency, temporary license. This is a practice adopted by the Board of Nursing, and it provides some discretionary flexibility to the agency to allow providers who are not in good standing to practice in Texas. For example, if a provider has a preexisting relationship with a patient who has returned to Texas during a disaster, and the provider is not in good standing because of some minor administrative violation, BHEC would have the ability to provide the person with an emergency license during a declared disaster.

COMPLAINTS & ENFORCEMENT

SUBCHAPTER B – INVESTIGATION AND DISPOSITION OF COMPLAINTS

§884.12 Complaint Disposition.

(c) The Council ~~shall~~ may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council ~~shall~~ may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- **Rationale:** One of the over-arching intents of the Legislature was to maintain the integrity and independence of each licensing board in establishing standards of care and ethical practices as set forth in §507.306 of the Texas Occupations Code. Each licensing board retains the authority to establish the standard of care and ethical practice required for their respective professions. The Texas Behavioral Health Executive Council does not have any authority related to standard of care or ethical standards and therefore must be required to consult with the member boards when these issues arise in contested enforcement matters. The benefits of engaging each board outweighs any potential processing delays.

GENERAL PROVISIONS

SUBCHAPTER B – RULEMAKING

§881.20 Rulemaking by Executive Council

(b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council ~~must~~ may only ~~also~~ review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.

- **Rationale:** §507.153 of the Texas Occupations Code, enacted by the 86th Legislature, specifically limits review of member board rules by the Texas Behavioral Executive Council only for anti-competitive impacts, administrative consistency and good governance. As proposed §881.20 (b) appears to be inconsistent with this statutory requirement. The words "must also" implies that the authority of the Council to review member board rules is broader than statutorily allowed. Replacing "must also" with "may only" reinforces and better aligns with the statute as well as legislative intent.



**Comments received after the 30 days of
publication of the proposed rules**



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments on Proposed Rules 22TAC Chapter 881

2 messages

Cassie Manley <cassie.manley@gmail.com>

Fri, May 29, 2020 at 11:27 AM

To: open.records@tsbep.texas.gov

To Whom It May Concern:

My name is Cassie Manley, and I am a **licensed social worker** with a hospice company and am pursuing LCSW status.

I appreciate the opportunity to provide the following comments on the Texas Behavioral Health Executive Council (BHEC) draft rules. I want to use the opportunity to improve the licensing board to better serve all licensed social workers in our state. We need an efficient and skilled board to function at its highest capacity to help the social work workforce meeting the needs of Texans.

Below my signature are a list of specific changes I am recommending and the sections covered. I would also like to highlight two important points:

1. BHEC Discretion re: Emergency License – COVID-19 has shown that social work licensure across state lines can impact whether someone receives timely mental health treatment. I believe that BHEC should immediately grant a license to someone from another state during the time of a disaster and have the discretion to grant emergency licenses to social workers licensed in other states who are not in good standing at their own discretion.
2. Licensing Rates: It is disappointing to see that our social work licensing rate increased. Social workers already deal with intense backlog with our licensing application and renewal process. We continue to see licensing rates grow without any change to show for it. *We ask that BHEC rules keep our rates unchanged.*

I appreciate the opportunity to provide feedback on the BHEC rules and look forward to working together to improve processes for social work licensure.

Sincerely,

Cassie Manley, LMSW

Brenda Skiff <brenda@tsbep.state.tx.us>

Fri, May 29, 2020 at 11:27 AM

To: Cassie Manley <cassie.manley@gmail.com>

Ms. Manley,

Thank you for your comment, however the comment period has expired.

Sincerely,

Brenda Skiff
Public Information Officer/
Legal Assistant
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste 2-450
Austin, TX 78701

6/9/2020

Texas State Board of Examiners of Psychologists Mail - Comments on Proposed Rules 22TAC Chapter 881

512-305-7700

[Quoted text hidden]

✕



Brenda Skiff <brenda@tsbep.state.tx.us>

Letter for the BHEC meeting on June 16th

1 message

Christy Bradshaw Schmidt, MA, LPC <christy@txfamilylawforensics.com>

Mon, Jun 1, 2020 at 5:24 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

Good afternoon,
Please accept my letter for production to the members of BHEC prior to their meeting on June 16th.
Thank you very much for all you do.
Sincerely,
Christy Bradshaw Schmidt, MA, LPC

Please note my new mailing address for your file:
P.O. Box 2043
Coppell, TX 75019

Christy Bradshaw Schmidt, MA, LPC
Child Custody Evaluator/Expert Consultant
P.O. Box 2043
Coppell, Texas 75019
Phone: 214-502-7224
Facsimile: 972-745-4585
www.txfamilylawforensics.com

This email and any attachments contain information from the office of Christy Bradshaw Schmidt, MA, LPC, and are intended solely for the use of the named recipients. Any dissemination of this email and any attachments is strictly prohibited. If you believe you have received this email in error, please notify the sender immediately and permanently delete the email, any attachments, and all copies thereof from any drives or storage media, and delete any printouts of the email and any attachments.

 **BHEC Letter.pdf**
135K

Christy Bradshaw Schmidt, MA, LPC
Child Custody Evaluator/Expert Consultant
P.O. Box 2043
Coppell, Texas 75019
Telephone: 214-502-7224; Facsimile: 972-745-4585
christy@txfamilylawforensics.com
www.txfamilylawforensics.com

June 1, 2020

Texas Behavioral Health Executive Council
via email: Open.Records@tsbep.texas.gov

Dear BHEC Public and Professional Members,

My name is Christy Bradshaw Schmidt, and I am a Licensed Professional Counselor in the state of Texas. I have worked in the field of family law forensics conducting Child Custody Evaluations for over twenty years, and I work extensively as an expert witness in family law matters assessing the work of other Child Custody Evaluators throughout our state. I am also a member of the Family Law Section, and I serve as the Mental Health Liaison to the Family Law Foundation; where we have worked actively to pass legislation that impacts Texas families and mental health professionals who find themselves involved in family law matters.

It is in my role with the Family Law Foundation that I believe provides you with the most helpful information from my perspective in my support of the Council's approval of the complaint process related to Child Custody Evaluations proposed by the Texas State Board of Examiners for Psychologists.

Child Custody Evaluations in the state of Texas are governed under the Texas Family Code, Section 107, Subchapter D. This statute has been in effect since 2015, and it is one of the most stringent in the nation as to its requirements for Child Custody Evaluators to follow best practice in their work with the families whom they serve. This law took six years of work to draft and pass through the legislature, and it was fully vetted through numerous interested parties, including members of the public who had experienced subpar Child Custody Evaluations in their own cases.

When the original legislation was drafted, it was fifty-nine pages, and I will spare you the details of each and every aspect of this extensive law, but I thought it would be helpful to give you an idea of what each portion of Chapter 107, Subchapter D, of the Texas Family Code covers so that you have a clear understanding as to the rules and regulations for Child Custody Evaluators in Texas that already exist. I have briefly outlined each section below:

- Section 107.101 – This portion of the statute provides a definition of all of the important aspects listed in the statute itself.

- Section 107.102 – This section of the statute denotes that a Child Custody Evaluation does not include services provided by the Department of Family and Protective Services.
- Section 107.1025 – This section of the statute details the difference between a Child Custody Evaluation and a Mental Examination as defined in the Texas Rules of Civil Procedure.
- Section 107.103 – This section of the statute details when a Court may and may not order a Child Custody Evaluation, as well as what must be included in the order appointing a Child Custody Evaluator, i.e. the name of the evaluator, the purpose of the evaluation, a list of the basic elements required, a list of the additional elements required of the evaluator, a list of specific questions for the evaluator to answer, and a statement that the evaluator is qualified.
- Section 107.104 – This section of the statute provides a detailed description of the qualifications required to conduct Child Custody Evaluations, which are extensive and detailed.
- Section 107.105 – This section speaks to the specialized training that is required of Child Custody Evaluators.
- Section 107.106 – This section speaks to the exceptions to the qualifications to conduct a Child Custody Evaluation to ensure that citizens in the more rural areas of Texas have access to services. However, everyone who conducts a Child Custody Evaluation must comply with the basic and additional elements outlined in their court order.
- Section 107.107 – This section of the statute details the issues related to conflicts of interests and bias and how evaluators are to address these issues to protect the public whom they serve and to ensure that they maintain their neutrality.
- Section 107.108 – This section provides a detailed list of the general provisions related to how a Child Custody Evaluation is to be conducted and how the report is to be prepared. This section specifically speaks to the requirements that an evaluator follow their licensure; follow local rules related to the jurisdiction that they serve; follow evidence-based practice methods; use current best evidence; maintain transparency in their communication with attorneys; verify statements of facts; state the sources of the verification in their report; state the basis for their conclusions and recommendations in their report; etc.
- Section 107.109 – This section speaks to the basic and additional elements that must be completed in the evaluation. The basic elements include the following: a personal interview of each party; interviews of the child or children in question over the age of four; observations of the child in question and the parties to the suit; observations of the child in question, the parties, and any other children who reside in the home on a full-time basis; and the obtaining of information from relevant collateral sources, i.e. schools, physicians, mental health records, Child Protective Services' records, criminal history information, etc. Evaluators must also assess the relationship between each party and the child or children of the suit, and there is a clear statement that if an evaluator has not completed these basic

elements (and provided a valid reason as to why that element was not completed), that evaluator may not make a recommendation related to possession and access.

In addition, this section also includes a list of additional elements that the Court can order the evaluator to complete. These additional elements include: balanced interviews and observations with the child or children in question; individual interviews of everyone who lives in either party's home on a full or part-time basis over the age of four; a home visit of each residence; an observation of the child or children in question with all of the adults who live in both homes; psychometric testing; and other tasks requested by the evaluator.

- Section 107.110 – This section provides details about how psychometric testing may be used in an evaluation and by whom.
- Section 107.1101 - This section of the statute provides direction to the evaluator about how to address issues in their evaluations regarding potentially undiagnosed serious mental illness.
- Section 107.111 – This section provides the evaluator the means to acquire the records from Child Protective Services, as well as outlines the consequences to the evaluator if those records are reproduced without a court order.
- Section 107.1111 – This section of the statute provides the evaluator the means to acquire law enforcements records and outlines the consequences to the evaluator if those records are reproduced without a court order.
- Section 107.112 – This portion of the statute outlines how evaluators are to keep records in addition to the requirement that their records be maintained according to their licensure.
- Section 107.113 – This section of the statute speaks to the requirements of a Child Custody Evaluation Report. An evaluator must specifically detail in their report their findings, opinions, and recommendations, and answers to specific questions posed by their court order. This portion of the statute also addresses how evaluators are to notify the Court that their evaluation is complete.
- Section 107.114 – This portion of the statute speaks to how a Child Custody Evaluation Report is to be published and to whom.
- Section 107.115 – This portion of the statute speaks to how the Child Custody Evaluation fee is to be paid.

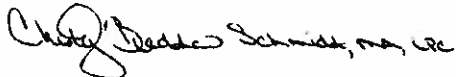
I believe that this law as a whole has helped the families in the state of Texas because it identified for the evaluators, the Court, the attorneys, and the litigants, the elements of a competent Child Custody Evaluation, and it provided the litigants an opportunity to more readily address any concerns in the report through their attorney at trial if their evaluator has not followed the guidelines that have been established.

I understand that you have heard from a number of members of the public who are in opposition to this newly proposed complaint process, but I believe that their concerns about the lack of guidelines regarding Child Custody Evaluators and evaluations have already been addressed in the law that exists in Section 107 of the Texas Family Code. I also believe that it is important to remember that Child Custody Evaluators do not make decisions in family law matters. As denoted above, Child Custody Evaluators are only allowed to make recommendations to the Court after they have completed all of the required elements for a Child Custody Evaluation, but the final decision lies with the parties if they are able to agree, an arbitrator, or the Judge. Any concerns about a Child Custody Evaluation, and especially its outcome, are best addressed with the Court presiding over their case or through the appellate process.

With that said, I am in full support of the complaint process regulations that have been passed and proposed to you by the Texas State Board of Examiners of Psychologists. I believe that these rules allow TSBEP to continue their work of protecting the public; while ensuring that subpar evaluators are held accountable when they do not follow the Family Code, their ethical code, and the orders of the Courts appointing them. I can only hope that the other Mental Health Boards under your purview will follow suit for the benefit of the few remaining evaluators in Texas so that we can grow our field and ensure better availability of these important services to the citizens of Texas.

I appreciate your time and your continued efforts and hard work in these difficult endeavors.

Sincerely,

A handwritten signature in black ink, reading "Christy Bradshaw Schmidt, MA, LPC". The signature is written in a cursive, flowing style.

Christy Bradshaw Schmidt, MA, LPC



Brenda Skiff <brenda@tsbep.state.tx.us>

Public Comments for BHEC Meeting on June 16th

1 message

Michael Puhl <michael@myfamilylawyer.net>

Tue, Jun 2, 2020 at 11:29 AM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

I am a former public member of the Texas State Board of Examiners for Marriage and Family Therapists and also had the honor to serve as Chairman of that board from 2012 through 2106. I am certified by the Texas Board of Legal Specialization in Family Law and have been in practice for nearly 40 years. I would first like to thank the Board for their continuing efforts to protect the public.

I submit this letter to urge the Board to support the complaint process for child custody evaluations as drafted by the Texas State Board of Examiners for Psychologists. In my opinion, these rules will simultaneously protect the public while ensuring that evaluators who fail to follow these rules and the laws that govern their work as child custody evaluators will be held accountable.

In contested custody proceedings the court routinely relies on the services of child custody evaluators to provide a thorough and objective view into the lives of families to assist the Court to evaluate the best interests of children. The rules as drafted clarify the complaint process and provide guidance to the litigant for making a complaint. Yet, child custody evaluations are only one element used by the court and the parties to decide very difficult custody issues.

Custody disputes are frequently contentious and highly emotional. Though there are strict statutory rules regulating both the qualifications to serve as an evaluator as well as how those evaluations must be conducted, high conflict cases such as these make it nearly impossible for litigants to form an accurate and balanced perception of what occurs in the courtroom. Even though there are many courtroom rules which allow both parties to thoroughly vet the basis for any recommendation by the evaluator, at least one of the parties walks away with less than what they wanted. This disappointment results in numerous complaints being filed against the evaluators who choose to accept appointments in these types of cases which results in fewer child custody evaluators taking on these responsibilities. It is also financially and emotionally devastating to have a child custody evaluator removed from a case in the middle of an evaluation due to a Board complaint being filed by an unhappy litigant.

As a former Board member I understand that it is essential to protect the interests of the public from inadequate and unqualified mental healthcare professionals. However, in recent years I have noticed that several excellent child custody evaluators have decided to stop accepting these appointments because of the certainty they will be forced to defend multiple Board complaints filed by any party who receives an unfavorable recommendation from that evaluator. The constant stress of defending these allegations together with the skyrocketing cost of defending their licenses make it necessary to abandon their positions as child custody evaluators. As an attorney, I know that the evaluator is frequently the only objective voice in the courtroom. Board members must balance the need to protect the public with the recognition that the role of the child custody evaluator is monumentally important to the process of providing closure to families in these high conflict situations.

For these reasons I urge the Board to support the complaint process for child custody evaluations as drafted by the Texas State Board of Examiners for Psychologists.

Michael Puhl

PUHL LAW GROUP, PC



205 W. Louisiana Street

Suite 201

McKinney, Texas 75069

(972) 569-3166 (telephone)

(972) 569-3167 (facsimile)

www.myfamilylawyer.net



Brenda Skiff <brenda@tsbep.state.tx.us>

Letter to the Texas Behavioral Executive Committee

1 message

Tammi Axelson <tammi@tammiaxelsonlmsw.com>

Wed, Jun 3, 2020 at 1:06 PM

To: Open.Records@tsbep.texas.gov

Good afternoon,

Attached is a letter for the Texas Behavioral Executive Committee.

Thank you so much for your time,

Tammi Axelson, LMSW-IPR
Child Custody/Adoption Evaluator
105 S. 2nd St, Lufkin, Texas 75901
Office: (936) 899-7296
Fax: (936) 899-7297
Website: tammiaxelsonlmsw.com

This email and any attachments contain information from the office of Tammi Axelson, LMSW-IPR, and are intended solely for the use of the named recipients. Any dissemination of this email and any attachments is strictly prohibited. If you believe you have received this email in error, please notify the sender immediately and permanently delete the email, any attachments, and all copies thereof from any drives or storage media, and delete any printouts of the email and any attachments.

 **Texas Behavioral Health Executive Committee Letter .pdf**
159K

Tammi Axelson LMSW -IPR

Child Custody and Adoption Evaluator
Expert Consultant
105. S. 2nd Street Lufkin TX 75901
Phone: (936) 899-7296
Fax: (936) 899-7297

June 3, 2020

Texas Behavioral Health Executive Committee

Dear BHEC Public and Professional Committee Members,

I am a Licensed Master Social Worker in the State of Texas with Independence Practice Recognition. I began working as a Child Custody Evaluator in a rural area of East Texas in 2006. I was contacted at that time by a local judge with a plea to assist the Court in conducting custody and adoption evaluations based upon the lack of qualified mental health professionals in the area. In the last fourteen years, my practice has grown from part-time to full-time in which I serve numerous rural counties and consistently have a high number of cases on my caseload. I find that the need for qualified and competent evaluators continues to be an issue, especially in small towns.

My role as a Child Custody Evaluator is to be neutral and unbiased, in which I essentially function in a limited capacity as the eyes and ears for the Court so to speak in order to assist in providing information that will help the Court in determining of the best interest for the children involved. My thorough reports provide information that the clients and/or parents might not have the chance to share in court, as well as important collateral data, and my evaluations are based upon current peer-reviewed research to aid the court in understanding child development, family systems, and other family law areas involving high conflict families. Although older children are often interviewed by the Court, within my role, I am often able to be a voice for the children, which prevents them from being pulled further into litigation and the family conflict since I am able to interview them in a more comfortable environment at their home.

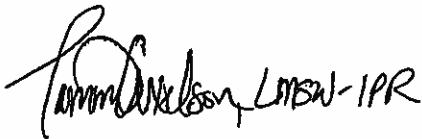
In addition, in my practice a high percentage of Child Custody Evaluations actually assist the families in settling their disputes without proceeding to court, thus reducing the cost of litigation and protecting the family unit from further conflict. Divorce and issues regarding custody of children frequently result in families and children experiencing strong emotions and distress, which makes this field of work difficult for mental health professionals who have to navigate the balance between protecting families while also maintaining the focus on the best long term outcomes for the children. When recommendations about children are made to the Court, it is common for one parent to become distraught and at times outraged with the evaluator because of their disagreement with the evaluator's findings. Often times, this leads to child custody evaluators becoming the focus of one parent's negative perceptions, even in situations in which the evaluator has followed best practices and the Court agrees with the recommendations as being in the best interest for the children involved.

I have found that many mental health professionals, especially those within the field of social work, do not fully understand the benefits of family law forensics and are driven from this area of expertise by the litigious nature of the legal system. The lack of mental health professionals willing to train and work in this field has created issues within our Court system. I am thankful to practice within a state that has specific guidelines that are clearly detailed within the Texas Family Code in order to govern who is qualified to conduct evaluations, the

type of training required and all of the specific elements mandated to be performed by the evaluator. The detailed statutes that were adopted in Texas in 2015 have unified the standards of practice for child custody evaluators and resulted in higher accountability for those conducting evaluations. In addition, the statutes in the Texas Family Code protect families from evaluators who do not follow best practice standards. I am truly grateful to those who have lobbied for higher standards for evaluators and for licensing boards and committees who continue to formulate laws and guidelines to ensure that child custody evaluations are conducted by ethical and competent professionals. It is important for our community to recognize that while evaluators have the ability to impact the outcomes for children, a child custody evaluator has no authority to make decisions as this rest solely with the judicial system.

I want to personally thank you for the time you have committed to understanding the field of child custody evaluations and the development of guidelines in the complaint process. It is important that our mental health professionals be held to a high standard of practice to protect the public from those mental health professionals who do not adhere to the statutes in Texas or follow best practice standards. Our state and communities are in dire need of competent and ethical mental health professionals willing to work in this difficult field of practice, and I believe that specific guidelines and processes are the key to acquiring and training more professionals into this area of practice. I fully support the complaint process that has been adopted by the Texas State Board of Examiners of Psychologists and hope that the other boards, such as the Texas Board of Social Work Examiners, will also adopt guidelines and processes that will result in more qualified mental health professionals entering this field while protecting the children and families involved during a difficult time in their lives.

Sincerely,

A handwritten signature in black ink, appearing to read "Tammi Axelson", followed by the text "LMSW-IPR" in a similar script.

Tammi Axelson, LMSW-IPR



Brenda Skiff <brenda@tsbep.state.tx.us>

Texas Behavioral Health Executive Council letter

1 message

Krista Weinstein <kristaweinstein@sbcglobal.net>

Thu, Jun 4, 2020 at 10:19 AM

To: "Open.Records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

Good morning:

Please see my attached letter. I appreciate the opportunity to provide my perception and concerns regarding the child custody evaluation process. Please let me know if you have any further questions.

Sincerely,

Krista Weinstein
214.497.2666

**BHEC letter - KWeinstein 3June2020.pdf**
161K

KRISTA FARBER WEINSTEIN

Dallas, Texas, 75230 • 214.497.2666 • kristaweinstein@sbcglobal.net

Dear Texas Behavioral Health Executive Council:

Thank you for the opportunity to provide my perception and concerns regarding the current Psychology Board's child custody evaluation complaint process and my support for the recommended changes which have already passed the Texas State Board of Examiners of Psychologists. I have a unique context of having gone through two Dallas area child custody evaluations in 2.5 years (from the start of the first to the conclusion of the second). These two experiences were distinctly different.

The first evaluation was a disaster, as was the evaluator herself. The entire process (from the first meeting with the evaluator until the report was submitted) took scarcely three months, which seemed quite short considering what I had been told to expect by my attorney. The report was inappropriate and contained extensive information that was not factual. I felt I was reading a report about someone else. This could not have been about me or my family as the information was not based on facts. It was not an accurate picture of my ex-husband or myself. Conclusions were drawn not from evidence (which was submitted), but by stories which were not substantiated. Most of the things my ex-husband said about me were not verified. Additionally, my concerns about him were not investigated, and thus, the report portrayed my concerns as baseless and not so egregious.

I later learned through my legal team that the evaluator did not follow the Texas Family Code. As I am not trained as a custody evaluator, I could not have known this. I do know that both my own therapist and one of the children's school counselors were misquoted. I also do know that following the release of the report, I requested that my psychological evaluation be sent to my therapist. I signed the appropriate forms and called to follow up. More than three years later it has still not been sent. To this day, I am not sure of all the infractions in this first child custody evaluation, but I do know that this report did not comply with the Family Code, as well as this evaluator's ethical requirements.

As my ex-husband is a now proven parental alienator, my children were clearly coached before meeting with the evaluator. Much of what the children told the evaluator was not truthful; however, there was absolutely no follow-up to assess if the information they relayed was factual. This includes, but is not limited to: no third-party corroboration, no checking of records, and no confirmation by teachers or others involved.

This first evaluator asked for personal references, but never called one of these people. She did call my mother and then spoke to my ex-husband's mother, father, and sister (who discussed not only me, but responded to what the evaluator told her my mother had said).

There is also a "story" in the report (referenced two places, pages apart) about the "mother" (implying me) blacking out while driving, hitting a tree, and totaling her car. It was never determined why this incident happened. This event did happen; however, it was not me; it was my ex-husband's "mother" (i.e., my former mother-in-law). Something this simple, and easy to fact check, was inappropriately repeated.

Despite knowing the report was inaccurate, at mediation I followed the evaluator's recommendation and agreed on 50/50 custody. My ex-husband was continually taking me to court. I could not afford to continue to fight (emotionally or financially) as the system (i.g., "the evaluation") seemed so flawed. The decision to agree to 50/50 custody, based on a report that did not meet the standards of Texas Family Code, proved to be disastrous for my children and for me.

Six months after mediation (and a month before our divorce decree would be signed), the alienation had so increased that on the second day of school, one of my children walked into the school counselor's office (different person than mentioned above) and falsely accused me of beating him and asked her to report me to CPS.

This intensified alienation and undermining led to the next eight months of verbal, emotional, and physical abuse against me and my property by all three of my children. My ex-husband's continued inability to follow the decree (specifically in relation to the standard orders not to disparage the other parent, etc.) had catastrophic consequences. He was ultimately granted a TRO against me on false allegations and he tried to get a protective order. The children lied to police, doctors, therapists, teachers, and administrators. Eventually two of my children were sent to therapeutic wilderness programs by the Associate Judge per the recommendation of their therapist and the amicus attorney. Everything my ex-husband was doing he had done before, but greatly intensified.

I expect this description will demonstrate the severity of consequences when a child custody evaluation is not done according to the Texas Family Code. The evaluator performed unprofessionally and unethically. The result was fateful. We are real people and the consequences are grave. The emotional and mental damage the children and I endured cannot be measured. I have spent (literally) millions of dollars trying to get help for my family and continue to fight to undo the harm that was caused.

With that said, it is important to state that the second child custody evaluator and evaluation were remarkably different. Yes, my ex-husband and I now knew the basics of what to expect in terms of forms and interviews; however, it was more than having an understanding of the process. Both the evaluator and the evaluation itself were as I expected and completed within the time frame I was told (which was approximately seven months).

It should be emphasized that I have not read this second report (it is 283 pages and was completed in June 2019) as there is a confidentiality order surrounding it; however, parts of it have been read to me (as is legally allowed) and I heard what the evaluator testified to in court. This report is reflective of our family (people and events are consistent with the factual events that happened). It does describe my ex-husband as a parental alienator who undermined my parenting. It further states he has no insight into his behavior or how that may affect the children. My ex-husband has now taken to vilifying this evaluator. Based on his past behavior, I am concerned about my ex-husband's next steps, up to and including how the evaluator might keep herself professionally safe. (I know that one of the rules for the new complaint process is to have the parent making a complaint provide a copy of their court order, the evaluation, and their final order. My understanding is that my case is very rare in that I am not allowed to have a copy of the evaluation, but I also would have the means to get that information to the Board

through my attorney if needed, which in no way makes this additional requirement overly burdensome to the public in my opinion.)

There is one other very important point to make to compare both evaluators involved in my case that I think demonstrates the unprofessional and unethical behavior of the first evaluator. There was a week-long trial last September (2019), after the second evaluation was completed. On the first day of trial I was surprised (and confused) when I saw the first evaluator in the courtroom even though this person had not been involved in my case since she turned in her report in March 2017. Apparently, my ex-husband's attorney asked that she be part of the trial (even though she was not on the witness list). For four days, this first evaluator – a court-appointed evaluator required by law to be a neutral party - attended the trial as part of my ex-husband's attorney's plan for her to testify as a rebuttal witness against the second court-appointed neutral evaluator. I now understand this is another ethical violation. The first evaluator never took the stand, but certainly demonstrated that she was not a neutral party as I expected an evaluator would (and should) be.

I have not made a board complaint against the first evaluator, although it remains an option. I have been focusing on my children and trying to repair the years of damage to our relationship. I believe four years of our lives have been stolen from us. Additionally, I work extra hours each week ensuring that I communicate with my ex-husband, even if he chooses to not respond and to continue to alienate.

I do not think anyone would believe going through a child custody evaluation is pleasant, but the process should be professional and ethical. Of course, every parent wants his or her "side of the story" to be heard and understood. After going through my first evaluation, I realize it is essential to trust not just the evaluator, but also the process. Allowing a poor evaluator to continue in this position with no consequences for unprofessional behavior undermines the entire process. For those of us who are dealing with any kind of abuse, it also gives false hope that our abusers will get help or be stopped.

With that said, I also believe that professional, competent evaluators who follow the law established in the Texas Family Code and who comply with their ethical rules also need to be protected from frivolous complaints made by litigants who do not like the report. Litigants should not be able to utilize the complaint process to have a competent evaluator removed from their case. I believe that the complaint process that has been proposed addresses the issues I experienced in my first evaluation. It holds evaluators accountable when they do not follow the Texas Family Code and the statute that governs and regulates the work they do, which protects the public and Texas families. It also ensures that our competent professional evaluators are protected from frivolous complaints that often come with high conflict families.

Sincerely,

Krista Farber Weinstein
3 June 2020



Brenda Skiff <brenda@tsbep.state.tx.us>

Texas Behavioral Health Executive Council

1 message

Edward Silverman <edsilverman@sbcglobal.net>

Thu, Jun 4, 2020 at 10:43 AM

Reply-To: Edward Silverman <edsilverman@sbcglobal.net>

To: "Open.Records@tsbep.texas.gov" <open.records@tsbep.texas.gov>

To: Texas Behavioral Health Executive Council

Dear council members:

Please see the attached letter regarding the proposed rules for complaints alleging violations related to court ordered evaluations.

Respectfully submitted,

Edward G. Silverman, Ph.D.
14550 Torrey Chase Blvd.
Suite 630
Houston, TX 77014
281-444-4494
281-444-9448 (fax)

Important Notice:

The information in this email is confidential and may be legally privileged. If you are not named as the intended recipient of this message, you are hereby notified that any disclosure, copy, or distribution of the information contained herein is prohibited and may be unlawful. You are requested to contact the sender immediately and dispose of this email.

**BHEC Letter 06.04.2020.pdf**
128K

EDWARD G. SILVERMAN, PH.D.
CLINICAL AND FORENSIC PSYCHOLOGY

NORTHCHASE CENTER
14550 TORREY CHASE BOULEVARD SUITE 630
HOUSTON, TX 77014
281-444-4494 FAX 281-444-9448

June 4, 2020

Texas Behavioral Health Executive Council

Dear Council Members:

I am a licensed psychologist in Houston, and I have conducted more than 550 court-ordered child custody evaluations over the past 32 years. I can think of relatively few family experiences that are as stressful as going through a contested child custody dispute. It is undoubtedly devastating to parents when they genuinely believe that the outcome of the litigation is extremely detrimental to the welfare of their children. Furthermore, it can be infuriating if it appears that the outcome was influenced by a seriously flawed child custody evaluation. Clearly, litigants in this scenario are entitled to sufficient recourse and the public needs to be protected from incompetent evaluators.

Fortunately, there are numerous checks and balances in the family law system that protect the welfare of those undergoing a child custody evaluation that are not in place for the recipients of most other psychological services. Custody evaluations are routinely reviewed by attorneys and judges, and in certain cases by national experts in the child custody arena. There is now a statute in the Texas Family Code which regulates the procedures employed by custody evaluators. Litigants have ample opportunity through legal counsel to challenge the professional conduct and findings of the evaluator through cross examination. A litigant's attorney can even challenge the admissibility of a custody evaluator's testimony if they feel proper procedures were not employed or if the evidentiary reliability of an evaluator's findings is in question.

Despite these safeguards, a highly disproportionate number of Board complaints involve child custody evaluations, and I am concerned about complaints of questionable merit that are based strictly on the outcome of the litigation rather than the quality of the evaluation. The virtual inevitability of a Board complaint has dissuaded newly licensed psychologists from specializing in this area, and the cumbersome and burdensome process of undergoing multiple Board complaints has experienced custody evaluators questioning whether they want to continue on this career path. The net result has been a serious lack of qualified evaluators, which is delaying the resolution of contested custody cases by several months, sometimes upwards of a year. This is clearly not in the best interest of these families, both emotionally and financially. The public deserves the availability of high-quality evaluations conducted in a timely manner, and modifying the procedure for resolving Board complaints is an important component of achieving this goal.

I strongly believe that the Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations that the Texas State Board of Examiners of Psychologists has approved and proposed to BHEC for consideration address the aforementioned concerns in a manner that will protect the public and resolve these complaints in a much more efficient, timely, and transparent manner. The proposed rules will allow complaints to be triaged based on the information and documentation that is provided. The information that is required in subsection (d) is extremely reasonable and should be readily accessible to the complainant. Dismissing complaints that do not comply with this subsection will be time and cost effective and will allow investigators to focus their resources on the complaints that warrant the most attention. The elements in subsection (f) are an excellent way of differentiating legitimate complaints from complaints that are based strictly on the outcome of the litigation and not on the quality of the evaluation.

Some may view these elements as hurdles or barriers that will make the complaint process more difficult for the complainant. On the contrary, I believe that subsection (f) provides the complainant with clear guidelines regarding the type of supporting evidence that is considered to be important, and element (5) ensures that all legitimate complaints that are factually based will be investigated. Furthermore, the elements in this subsection provide investigators with a clear set of guidelines for how to proceed with the investigation. The entire process becomes more objective, more data-driven, more transparent, and more efficient.

I firmly believe that the proposed rules reflect the Board's sensitivity to all of the stakeholders who would be affected by them, while maintaining the primary objective of protecting the public and ensuring that evaluators who are not following the rules and laws that govern their practice will be held accountable. Consequently, I strongly support their adoption.

Sincerely,

A handwritten signature in cursive script, appearing to read "Edward G. Silverman".

Edward G. Silverman, Ph.D.
Licensed Psychologist



Brenda Skiff <brenda@tsbep.state.tx.us>

Letter to Behavioral Health Executive Council

1 message

Victoria Harvey <drvictoriaharvey@gmail.com>

Thu, Jun 4, 2020 at 2:41 PM

To: Open.Records@tsbep.texas.gov

Dear Members of the Behavioral Health Executive Council,

Attached please find my letter related to the proposed rule changes regarding the complaint process for Child Custody Evaluations. Should you have any questions, please do not hesitate to contact me.

Sincerely,

Victoria Harvey, Ph.D., M.S.C.J.
Licensed Psychologist
Phone: 972-330-7944
Fax: 214-436-4930

CONFIDENTIALITY NOTICE The information contained in this email may be confidential and/or privileged. This email is intended to be reviewed by only the individual (s) named above. If the reader of this email is not the intended recipient(s), or a representative of the intended recipient(s), you are hereby notified that any review, dissemination or copying of this email and/or attachments, if applicable, is prohibited. If you received this email in error, please immediately notify the sender by telephone listed above and permanently delete the email. Thank you.



Letter to BHEC_Harvey.pdf
125K

Victoria Harvey, Ph.D., M.S.C.J.
Licensed Psychologist (TX# 36227)

8668 John Hickman Pkwy, Suite 905, Frisco, TX 75034 – (972)330-7944, Fax: (214)436-4930

June 4, 2020

Dear Members of the Behavioral Health Executive Council,

My name is Victoria Harvey and I am a psychologist who has been licensed by the Texas State Board of Examiners of Psychologists since 2012. I received my graduate training at the University of Alabama where I was privileged to receive specialized training in forensic assessments as a member of the Clinical Psychology and Law track. I continued my forensic training in my predoctoral internship with the Federal Bureau of Prisons and a postdoctoral fellowship with the Dallas VA Medical Center. I had the honor of serving our nation's veterans as the Dallas VA's inpatient psychologist until 2016 when I made the decision to return to my passion, which is and always has been, forensic assessments. I currently work as an independent practitioner who primarily conducts child custody evaluations and forensic psychological evaluations for the Family Court and am a member of the Family Law Foundation, the American Psychology-Law Society, and the Association of Family and Conciliation Courts.

As I transitioned to conducting child custody evaluations, I vividly remember many of my colleagues repeatedly asking me if I was *really* sure I wanted to do this kind of work and noting the lack of practitioners willing to conduct forensic assessments. I finally worked up the nerve to ask the obvious question: why are so few psychologists willing to do this very important work? The response was almost unanimous: board complaints and harassment. Although this letter is not intended to address the harassment piece, I will say that, as a clinician who has worked in private practice, on an inpatient unit and in maximum security federal prisons, doing custody evaluations has proven to be the most dangerous for both me and my family.

I initially brushed off the warnings of my colleagues, but then I witnessed my colleagues receive board complaints even though no rules had been violated. I saw them spend time and money defending themselves against these complaints; time that could have been used helping other families. I was disheartened when I then watched some of them decide it was no longer worth it and either retire or decide to practice in a non-forensic capacity. Others had the decision made for them when their malpractice insurance decided to drop them or reduce their coverage *even* though all the complaints against them had been dismissed.

The result is an absolute dearth of qualified practitioners willing to take the risks associated with this type of work. Prior to speaking to the Psychology Board in May 2019, I had received a call from an attorney asking me if I was still conducting child custody evaluations. The judge had given her a list of seven names, but only I and one other person on that list (who was conflicted out of

the case) were still willing to accept court appointments. Since that time, the list of available evaluators has only grown shorter. I regularly receive calls from counties outside of DFW asking me to conduct child custody evaluations because there is no one locally available to do so. Conducting out-of-town evaluations cost significantly more to the litigants and take more time to complete.

The public needs and deserves to have a reservoir of competent child custody evaluators. Evaluators who do not follow the Texas Family Code or the rules of their licensing board need to be identified and reprimanded accordingly. After reading the changes to the complaint process that have been adopted by the TSBEP, I want to express my full support of those changes. I firmly believe that the proposed rules will help the board identify and investigate the allegations against custody evaluators more effectively by eliciting from the complainant the information the board needs to do its job. It will also no longer allow litigants or attorneys to abuse the complaint process to have evaluator's removed from cases while the case is ongoing; this tactic is unfortunately used when an attorney/litigant believes the evaluation is not going in his/her favor.

I thank you for taking the time to read my letter and I am happy to provide clarification or answer any of your questions. The work child custody evaluators do is grueling, oftentimes thankless, but so important. It would be truly a harm to public should our courts no longer have qualified professionals willing to do this work.

Sincerely,

A handwritten signature in black ink that reads "Victoria Harvey, Ph.D." The signature is written in a cursive, flowing style.

Victoria Harvey, PhD., MSCJ
Licensed Psychologist (Texas #36227)



Brenda Skiff <brenda@tsbep.state.tx.us>

Letter for BHEC members in advance of June 16th meeting

1 message

Aaron Robb <aaron@texascounseling.org>

Fri, Jun 5, 2020 at 9:23 AM

To: open.records@tsbep.texas.gov

Please find attached a letter in advance of the BHEC meeting later this month. It is my understanding that letters can be distributed to the Council members prior to the meeting. Thank you for assisting with that process.

--

Aaron Robb, Ph.D., LPC-S

Forensic Counseling Services


<http://www.texascounseling.org>

Mailing Address: 2831 Eldorado Pkwy., Ste. 103-377, Frisco, TX 75033

Phone: 972-360-7437; Fax: 940-343-2601

"You can't go back and make a new start, but you can start right now and make a brand new ending." James Sherman
(commonly mis-attributed to C. S. Lewis)

This e-mail and any attachments contain information from the office of Aaron Robb, Ph.D., LPC-S, and are intended solely for the use of the named recipients. Any dissemination of this e-mail is strictly prohibited. If you believe you have received this e-mail in error, notify the sender immediately and permanently delete the e-mail, any attachments, and all copies thereof from any drives or storage media and destroy any printouts of the e-mails or attachments.

 **BHEC letter for June 16 meeting 2020-06-05.pdf**
81K

FORENSIC COUNSELING SERVICES

Aaron Robb, Ph.D., LPC-S
Program Director

Mailing address:
2831 Eldorado Pkwy, Ste. 103-377, Frisco, TX 75033

Telephone: 972-360-7437

Interview office:
250 N. Mill St. Suite 5, Lewisville (across from City Hall)

Fax: 940-343-2601
www.texascounseling.org

6/5/2020

open.records@tsbep.texas.gov

Dear Texas Behavioral Health Executive Council members,

I am writing in advance of the BHEC meeting on June 16th. I know there will be a lot of information reviewed at the meeting and I hope by highlighting a few issues now, I can avoid adding to information overload at the meeting. I have previously submitted detailed public comments regarding many of the rules that have been proposed; today, I want to focus on the proposed rules related to complaints regarding child custody evaluators. I greatly appreciate the time and effort BHEC has spent to address this issue and to protect the public from evaluators who fail to comply with the Family Code or their licensing requirements. I believe these rules will help ensure that evaluators who are complying with professional practices and helping courts and families will be able to continue this challenging and unfortunately necessary work.

I am a Licensed Professional Counselor who specializes in working with court-connected clients. For over two decades I have counseled and assessed children and parents dealing with issues of abuse, neglect, and other serious family systems dysfunction. My doctoral degree is in Social Work, and my academic area of interest is the intersection of law and mental health, particularly in regard to high-conflict families. I have authored various professional articles in both legal and mental health journals, and currently serve on the editorial boards of the journal *Family Court Review* and the *Journal of Family Trauma, Child Custody, and Child Development*. Across the course of more than a decade I have worked with NASW, TCA, and the Family Law Foundation (among others), on legislative updates to the Family Code regarding forensic mental health services which have now placed Texas in the forefront, nationally, in rigorous requirements for courts and the evaluators they appoint.

From both academic study and professional experience, I know how difficult it can be when parents turn to the courts to resolve parenting disputes. This emotionally fraught environment often leads to dissatisfaction for many reasons. The proposed rules protect the public by holding evaluators accountable for maintaining professional procedures, while leaving it to the family courts to address the complex issue of resolving child custody disputes. The rules provide clear guidance to a litigant making a complaint, and direct them to the licensing issues member boards are charged with regulating. The information the proposed rules require be provided when making a complaint are documents that litigants have easy access to, and which

will allow investigators to make important initial assessments in order to rapidly address the most critical cases. For cases where litigants have not been able to hire their own experts, or even attorneys to represent them in court, these documents allow investigators to examine if there were violations of administrative rule for which sanctions could be upheld at the State Office of Administrative Hearings. This issue is critical to licensing boards, as their function is not to serve as oversight of the judiciary or legal outcomes in a court case; licensing boards regulate licensees and remediate deficiencies when licensees fail to comply with professional requirements. While requirements in the rules might be expanded in future iterations to include broader issues, a future fine-tuning of rules should not stop BHEC from adopting these initial rules in order to advance regulation of all of the behavioral health professionals.

Thank you again for your time and attention to these difficult issues. I look forward to BHEC passing these rules as an initial step forward for all of the behavioral health professions.

Sincerely,

A handwritten signature in black ink that reads "Aaron Robb". The signature is fluid and cursive, with the first name "Aaron" and last name "Robb" clearly distinguishable.

Aaron Robb, Ph.D., LPC-S



Brenda Skiff <brenda@tsbep.state.tx.us>

BHEC Public Comment - Jacobson

1 message

Steven "Jake" Jacobson LCSW <jake@ccdounseling.com>

Fri, Jun 5, 2020 at 9:57 AM

To: Open.Records@tsbep.texas.gov



Jacobson BHEC letter 20200605.pdf

230K



CCD Counseling P.A.

Denton

Lewisville

Farmers Branch

Administration: 1512 Scripture Street, Denton, Texas 76201

(940) 382-5328 www.ccdcounseling.com www.facebook.com/ccdcounseling

June 5, 2020

Behavioral Health Executive Council
c/o Brenda Skiff
Public Information Officer
Texas State Board of Examiners of Psychologists
333 Guadalupe, Ste. 2-450
Austin, Texas 78701
via email to: Open.Records@tsbep.texas.gov

RE: §884.3.Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations.

Behavioral Health Executive Council Members:

I am a Clinical Social Worker, a Mediator and have previously conducted Child Custody Evaluations in Denton County. I am writing in support of the rules proposed for "Complaints Alleging Violations Related to Court Ordered Evaluations" (§884.3.).

Thank you for your service on this board and the job that you do in protecting the public.

The current best practices for conducting Child Custody evaluations is guided by many sources:

1. The state of Texas has a number of laws about who can conduct the evaluations, how they are conducted, and how the findings and recommendations are provided to the court.
2. Some of our professional associations provide additional guidance toward what they see as a model practice. The Association for Family and Conciliatory Courts also publishes "Model Standards."
3. Courts have the ability to, and have adopted local rules to further protect the public during the performance of child custody evaluations. Courts also control who is appointed to conduct the evaluations, further protecting the public.

Despite all of this guidance and structure, I am certain that evaluations are conducted that are not performed well, reports are submitted that are inaccurate or incomplete, and recommendations made that are not in a child's best interest. I have likely done all of these things. Likewise, there has certainly been instances where despite good intentions, the judicial system has failed to serve some child's best interest. I am confident that you will hear about that during this public comment period. Some of those concerns about specific cases have some validity. Some of those commenting will suggest to you that the solution lies with you; that if the board would intervene further into the court's jurisdiction, the public would be better protected. I don't believe that's true.

An evaluator's report is just another piece of data for the decider, the judge to consider. There are myriad rules about admissibility, and each party in the case has the opportunity to present arguments about that before the evaluator's report is ever considered. If it is admitted, each party has further opportunity to cross-examine the methods, findings and recommendations carried in the report. They can present evidence and testimony that collaborates or disputes the content of the report. After hours or days of deliberation, the Judge decides what weight, if any, that data should be given and then considers it, along with all of the other testimony and evidence presented to them. It is only after all of that examination that the court may make a ruling, however imperfect such a ruling may be. Even that ruling is not necessarily final, as it can be appealed to higher courts.

If licensing boards with good intentions interfere in this process, by accepting and taking action on a complaint in the middle of this process, the complaining party may feel better protected. But assuredly, the other parties to the case are not better protected. They have to start the process over financially, emotionally and legally.

You will likely also hear about the imperfection of our legal system and the legislation that structures and supports it. Again, I am certain those imperfections are there. Every two years, thousands of us take to our keyboards and spend hours educating and advocating with our representatives about ways that we believe that the system could be better structured to the benefit of Texas' children. Like the Judge, the legislators have to listen to all of the pros and cons associated with our proposals and then, in another imperfect system, decide to enact, delete, or modify legislation. During this public comment period, some of those comments will suggest to you that the solution to this imperfection lies with you; that if the board would intervene further into the legislator's jurisdiction, the public would be better protected. I don't believe that's true.

Our licensing boards' job is to protect the public, but to do that best, the board does that in the board's area of expertise, which is about professional practice. After the legislators go home and judges rule, it is THEN the board's job to consider if there is a specific licensing rule that was violated and if that violation requires some action by the board to protect the public.

I think the proposed rules contained in Section §884.3 will provide the Council with the best tools for protecting the public, without inadvertently interfering with the ongoing work of our local judiciary or our legislature.

Thank you for your attention to this issue.


Steven E Jacobson, LCSW



Brenda Skiff <brenda@tsbep.state.tx.us>

Statement for BHEC members to consider for the upcoming meeting 6/16/20

1 message

adrienne tinder <antinder@gmail.com>

Fri, Jun 5, 2020 at 5:41 PM

To: Open.Records@tsbep.texas.gov

Dear Council Members-

I am writing this letter to express my support for the proposed complaint process for child custody evaluations as drafted by TSBEP. As a licensed psychologist since 2009, I provide child custody evaluations, as well as other assessment and treatment for those involved in family law litigation. I am one of a handful of known psychologists who regularly conduct child custody evaluations in the city of Houston and surrounding counties. As you may know, families involved in contested child custody cases make up a minority of the divorcing families with children but utilize a disproportionate amount of family court resources. This population consists of parents who are battling for their children and the stakes are high, resulting in high levels of stress and conflict. These parents can often struggle with mental health issues, substance abuse, domestic violence, and a plethora of other psychological issues, requiring the expertise of a mental health professional who has familiarity with these areas of practice. The children involved are often struggling with high levels of parental conflict and they deserve to have their cases examined and resolved by the courts with the hope that they can overcome their unfortunate and undeserved circumstances. These are the families we serve. This is the vulnerable population so few of us are trained and/or willing to work with, and although we only make recommendations for the court to consider in their final decision for the family, we play an important role in assisting the courts and families. These families deserve nothing less than high quality work from high quality professionals.

I am also a member of a vulnerable population: early-to-middle career child custody evaluators at risk of stopping this work. I was fortunate to have prior experience of graduate school training in custody evaluations, and I was fortunate to be qualified to do this work prior to the statute (Texas Family Code, Subchapter D) being instituted, outlining the stringent criteria we need to meet just to provide this service. I was also fortunate to have gone into this field with the understanding that a board complaint is 100% likely for a custody evaluator. Fear of a board complaint was the reason I waited multiple years before conducting custody evaluations in private practice, and it is also the reason that many of my equally trained peers have decided not to conduct them at all.

Sadly, complaints are only a portion of the stress in relation to this work. We have a demanding job to begin with: we conduct a large-scale assessment of a family in a horrible situation and make recommendations to the court that are high-stakes and have serious repercussions. We must maintain a high standard of practice, not only because we want to strive to be the best we can be, but because we are held accountable by the litigants, their legal representatives, and the courts we serve. We also must operate with the knowledge that one, if not more of our clients will be upset with the outcome of the evaluation. In essence, we must practice defensively and under a great deal of pressure. When frivolous complaints are filed by angry litigants, often disenfranchised by the legal system and seeking justice, there can be an unintended consequence of burdening the evaluators who are doing high quality work.

Unsurprisingly, the numbers of evaluators are dwindling and there are even fewer new evaluators to meet the demand. With so few of us willing to provide these evaluations, there are simply not enough of us to provide quality evaluations in a timely manner. Many of us have long wait lists, contributing to longer litigation periods for these families. Additionally, the dearth of highly trained evaluators leads to an obvious but detrimental consequence of courts and families receiving services from poorly trained or unqualified evaluators. This is a threat to the public.

I have become actively involved in this issue over the past year and have been to multiple TSBEP meetings to make public comments and to listen to those made by others. I have reviewed the proposed rules and believe that they reflect TSBEP's thorough job of reviewing the complaint process for court-ordered cases. I believe these rules will assist in protecting the public and ensuring that evaluators not following the rules and laws that govern their process will be held accountable. I also believe these rules provide important guidance to the complainant to provide more specific information, which in turn allows the board to more efficiently gather data to determine if there has been a violation. Undoubtedly, improvements to the complaint process will pave the way for us to engage new evaluators and provide more services to the public. It is my hope that the implementation of these rules will assist our vulnerable field in meeting the demands of the child custody population while maintaining the high quality these families deserve.

Thank you for your time and attention to this matter.

Adrienne Tinder

--

Adrienne N. Tinder, Ph.D.
Clinical and Forensic Psychology
14550 Torrey Chase Blvd.
Suite 630
Houston, TX 77014
281-444-4494
281-444-9448 (fax)

Important Notice:

The information in this email is confidential and may be legally privileged. If you are not named as the intended recipient of this message, you are hereby notified that any disclosure, copy, or distribution of the information contained herein is prohibited and may be unlawful. You are requested to contact the sender immediately and dispose of this email.



Brenda Skiff <brenda@tsbep.state.tx.us>

Comments for Proposed BHEC Rules

1 message

Kenda Dalrymple <kenda@dsedlaw.com>

Fri, Jun 5, 2020 at 5:51 PM

To: "Open.Records@tsbep.texas.gov" <Open.Records@tsbep.texas.gov>

Attn: Open Records

Good afternoon:

I have attached my comments to the proposed rules of the Behavioral Health Executive Council (BHEC), as proposed in the TEXAS REGISTER on April 24, 2020.

Best Regards,



Kenda B. Dalrymple, Managing Partner

Dalrymple, Shellhorse, Ellis & Diamond, LLP

901 South MoPac Expressway

Building 1, Suite 280

Austin, Texas 78746

Telephone: (512) 623-5433 Direct Line

(512) 472-4845 Main

(512) 576-1271 Cell Phone

Facsimile: (512) 472-8403

E-mail: kenda@dsedlaw.com

www.dsedlaw.com

The preceding e-mail message (including any attachments) contains information that may be confidential, be protected by the attorney-client or other applicable privileges, or constitute non-public information. It is intended to be conveyed only to the designated recipient(s). If you are not an intended recipient of this message, please notify the sender by replying to this message and then delete it from your system. Use, dissemination, distribution, or reproduction of this message by unintended recipients is not authorized and may be unlawful.

 **Dalrymple Comments to Proposed Rules 06.05.2020.pdf**
204K



**Adopted Rules (General Provisions) for
Texas Behavioral Health Executive Council**

Table of Contents

THE TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL	1
SUBCHAPTER A - GENERAL PROVISIONS.....	1
881.1. Authority	1
881.2. Definitions.....	2
881.4. Council Member Terms.	5
881.5. Conflicts of Interest and Recusals.....	6
881.6. Limited Delegation of Executive Council Authority to Member Boards.	8
881.7. Unofficial Statements and Decisions.	9
881.8. Former Council or Board Members.	10
881.9. Prohibition Against Dual Office Holding.	11
881.10. Conflict Between Other Laws and Council Rules.....	12
881.11. Access to Agency Records by Appointed Members.	13
881.12. Statutory or Rule References.....	14
881.13. Conduct and Decorum.....	15
SUBCHAPTER B - RULEMAKING	16
881.20. Rulemaking by the Executive Council.....	16
881.21. Petition for Rulemaking.	19
SUBCHAPTER C – PERSONNEL	20
881.30. Executive Director.	20
881.31. Agency Staff Training and Education.....	21
881.32. Sick Leave Pool.....	22
SUBCHAPTER D – CONTRACTS AND PROCUREMENT	23
881.40. Agency Contracts and Purchasing.....	23
881.41. Use of Historically Underutilized Businesses (HUBS).....	24

TITLE 22. EXAMINING BOARDS

PART 41. TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

CHAPTER 881. GENERAL PROVISIONS

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §§881.1-881.13

The Texas Behavioral Health Executive Council adopts new §§881.1-881.13, relating to general provisions for the Executive Council. Except for §881.2, the new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2640) and will not be republished. In response to changes being proposed in 22 Tex. Admin. Code Ch. 681, where the term Licensed Professional Counselor Intern (LPC-I) is being changed to Licensed Professional Counselor Associate (LPC-A), the Council adopts the corresponding name changes in rule §881.2, as a non-substantive change, which is republished below.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 2001.004 of the Tex. Gov't Code requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. These new rules are the general framework regarding the Executive Council's operations and the implementation of its statutory duties.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

A commenter recommended deleting all of proposed rule §881.13. The commenter believed the rule was too vague, restricts citizen's rights to participate in public meetings, and provided too much

discretion for the agency to act based upon what the commenter believes is undefined criteria.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

Texas Agencies have the inherit authority to not only conduct meetings and other operations but also control how to conduct such proceedings. Rule §881.13 insures that all participants, including the agency and the public, are treated fairly and respectfully so that agency business can be conducted in an orderly fashion. The rule aids and promotes respectful participation in meetings and put those on notice that if they choose to be threatening or abusive such conduct has no place before this agency. For these reasons the agency declines to make the requested changes, and hereby adopts the rule with no changes.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

THE TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

SUBCHAPTER A - GENERAL PROVISIONS

- 881.1. Authority. This chapter is promulgated under the authority of Occupations Code, Chapter 507, and applies to each member board.

881.2. Definitions.

- (a) The following definitions are generally applicable throughout the agency's rules and policies:
 - (1) The term "ALJ" as used herein shall refer to an administrative law judge employed by SOAH.
 - (2) The terms "Chapter 501," "Chapter 502," "Chapter 503," "Chapter 505," and "Chapter 507" as used herein shall refer to the corresponding chapter in the Occupations Code.
 - (3) The term "Executive Council" or "Council" as used herein shall refer to the Texas Behavioral Health Executive Council (BHEC).
 - (4) The term "member board" as used herein shall refer to:
 - (A) The Texas State Board of Examiners of Marriage and Family Therapists (TSBEMFT);
 - (B) The Texas State Board of Examiners of Professional Counselors (TSBEPC);
 - (C) The Texas State Board of Examiners of Psychologists (TSBEP); or
 - (D) The Texas State Board of Social Worker Examiners (TSBSWE).
 - (5) The term "PFD" as used herein shall refer to a proposal for decision issued by an ALJ.
 - (6) The terms "professional development" and "continuing education" as used herein have the same meaning.
 - (7) The term "SOAH" as used herein shall refer to the State Office of Administrative Hearings.
 - (8) The term "TAC" as used herein shall refer to the Texas Administrative Code.
- (b) The following definitions apply only to those rules specific to the regulation of the practice of marriage and family therapy:
 - (1) "LMFT" refers to a licensed marriage and family therapist and has same the meaning as assigned by §502.002 of the Occupations Code.

- (2) “LMFT Associate” refers to a licensed marriage and family therapist associate and has same the meaning as assigned by §502.002 of the Occupations Code.
- (c) The following definitions apply only to those rules specific to the regulation of the practice of professional counseling:
 - (1) “LPC” refers to a licensed professional counselor and has same the meaning as assigned by §503.002 of the Occupations Code.
 - (2) “LPC Intern” refers to an individual licensed as a professional counselor intern under §503.308 of the Occupations Code.
- (d) The following definitions apply only to those rules specific to the regulation of the practice of psychology:
 - (1) “LPA” or “Psychological Associate” refers to an individual licensed as a psychological associate under §501.259 of the Occupations Code.
 - (2) “LSSP” refers to an individual licensed as a specialist in school psychology under §501.260 of the Occupations Code.
 - (3) “Provisionally licensed psychologist” or “provisional licensee” means an individual licensed as a psychologist with provisional status under §501.253 of the Occupations Code.
 - (4) “PSYPACT” refers to the Psychology Interjurisdictional Compact found in Chapter 501, Subchapter L of the Occupations Code.
- (e) The following definitions apply only to those rules specific to the regulation of the practice of social work:
 - (1) “LBSW” refers to a licensed baccalaureate social worker and has same the meaning as assigned by §505.002 of the Occupations Code.
 - (2) “LCSW” refers to a licensed clinical social worker and has same the meaning as assigned by §505.002 of the Occupations Code.
 - (3) “LMSW” refers to a licensed master social worker and has same the meaning as assigned by §505.002 of the Occupations Code.
 - (4) “LMSW-AP” refers to an individual licensed as a master social worker with the advanced practitioner specialty recognition.

881.3. Council and Board Meetings.

- (a) Every regular, special, or called meeting of the Council or a member board shall be open to the public as provided by the Government Code, Chapter 551 ("the Open Meetings Act").
- (b) A quorum for the Council or a member board shall consist of a majority of all the respective members as designated by statute. When a quorum is present, a motion before the body is carried by an affirmative vote of the majority of the members present and participating in the vote.
- (c) The presiding officers of the Council and member boards may make and second motions, as well as vote on any matter brought before their respective body without the necessity of relinquishing the chair.
- (d) The Council and each member board shall provide the public with a reasonable opportunity to appear before the respective body and offer public comment on any issue under the Council's or member board's jurisdiction. Persons wishing to offer public comment must sign in at the beginning of the meeting and may speak during the public comment portion of the meeting. The presiding officer shall maintain decorum and orderly proceedings, and may limit the time allowed for each individual providing public comment.

881.4. Council Member Terms.

- (a) The terms for the Council members selected by the Texas State Board of Examiners of Psychologists and the Texas State Board of Social Worker Examiners shall expire as follows:**

 - (1) for professional members, on February 1st of odd years; and**
 - (2) for public members, on February 1st of even years.**
- (b) The terms for the Council members selected by the Texas State Board of Examiners of Professional Counselors and the Texas State Board of Examiners of Marriage and Family Therapists shall expire as follows:**

 - (1) for professional members, on February 1st of even years; and**
 - (2) for public members, on February 1st of odd years.**
- (c) Member boards may reappoint members to serve on the Council without limitation as to the number of terms served.**
- (d) A member selected to fill a vacancy on the Council holds office for the unexpired portion of the term.**

881.5. Conflicts of Interest and Recusals.

- (a) A Council or board member who has any personal or professional interest that might reasonably tend to influence the discharge of the member's duties in a matter pending before the agency, shall disclose that conflict in an open meeting called and held in compliance with Chapter 551 of the Government Code. Should the required disclosure relate to a matter to be considered during a closed meeting, the member shall disclose the conflict during the closed meeting. A Council or board member may neither vote nor otherwise participate in any discussion or decision on a pending matter where the member's personal or professional interest might reasonably tend to influence the discharge of the member's duties. Any conflict disclosed by a board member shall be entered in the minutes or certified agenda of the meeting.
- (b) An individual who has any personal or professional interest that might reasonably tend to influence the discharge of the individual's duties while serving on a committee, temporary suspension or disciplinary review panel, or workgroup, shall disclose that conflict to the committee, panel, or workgroup, as well as to the Executive Director. The individual may neither vote nor otherwise participate in any discussion or decision on a pending matter where the individual's personal or professional interest might reasonably tend to influence the discharge of the individual's duties. Any conflict shall be entered in any minutes or notes kept by the committee, panel, or workgroup.
- (c) A Council or board member may not vote or otherwise participate in any discussion or decision conducted during a meeting held in compliance with Chapter 551 of the Government Code regarding a complaint or eligibility proceeding previously heard by the member while serving on a temporary suspension panel or disciplinary review panel. A Council or board member who is disqualified under this subsection shall be recused from any voting or discussions on the matter, and the recusal shall be entered in the minutes or certified agenda of the meeting.
- (d) Any individual who is required to make a disclosure or is recused or restricted from voting or participating in some manner under this rule, shall refrain from influencing or attempting to influence the discussion or decision on a matter in which the individual is prohibited from participating. The presiding officer or Executive Director may take reasonable steps to enforce this requirement, including requesting that the individual leave the room before beginning or continuing with a meeting, hearing, discussion, or vote.

- (e) A disclosure required by this rule must be made as soon as possible once an individual becomes aware of facts giving rise to a duty to take action under this rule. Any information received by a Council or board member or agency staff that might reasonably lead one to believe that an individual has a duty to take action under this rule must be sent to the Executive Director, who shall then forward the information to the individual.
- (f) Except as provided for in subsection (c) of this section, this rule shall not operate to preclude a Council member from voting or otherwise participating in any discussion or decision due solely to a member's service on an underlying member board.
- (g) It is presumed that the judgment of a reasonable person subject to this rule would not be materially affected because the individual holds a license issued by this agency or one of its member boards.
- (h) A person does not have an interest which is in conflict with the proper discharge of duties contemplated under this rule if any benefit or detriment accrues to the person, or any individual or group with whom the person is associated, to no greater extent than any other similarly situated person.

- 881.6. **Limited Delegation of Executive Council Authority to Member Boards.** By rule, policy, or custom, the Council may delegate to a member board any responsibility or authority not exclusively reserved to the Council in statute. The Council retains responsibility and oversight for any decisions or actions undertaken by a member board under this grant of authority. The Council may reverse, modify, or refer any decisions or actions taken by a member board under the authority of this rule back to that member board for further action or consideration.

- 881.7. **Unofficial Statements and Decisions.** Statements and decisions made by an individual Council or board member, an advisory committee member, or a member of the agency staff are not binding on the Council, or its member boards, when conducting agency business, unless otherwise stated in these rules.
-

881.8. Former Council or Board Members.

- (a) A Council or board member whose term has expired and who has ceased to serve will not be employed or utilized to represent the Council or one of its member boards for two years after the member's service has ended.**
- (b) A former Council or board member may not represent that the member is an official or unofficial representative of the Council or one of its member boards. Any such representations are not binding in any way.**
- (c) A former Council or board member may not disclose confidential or privileged information obtained during the member's service on the Council or board. Such disclosure is deemed unprofessional conduct and is grounds for disciplinary action.**

881.9. Prohibition Against Dual Office Holding.

- (a) The Executive Director and appointed members of the agency (i.e., Council and board members) may not accept an offer to serve in another non-elective office unless they first obtain from the Council or their respective member board, a finding that the member has satisfied Article XVI, §40, of the Texas Constitution.**
- (b) The Council or board must make a written record of any finding under subsection (a) of this section. The finding must include any compensation that the member or Executive Director receives from holding the additional office, including salary, bonus, or per diem payment.**

881.10. Conflict Between Other Laws and Council Rules.

- (a) In the event of a conflict between a Council rule and the state or federal constitution, a state or federal statute, or a rule, guideline, or requirement promulgated by a federal office or agency, the state or federal law, guideline, or requirement shall control.**
- (b) In the event of a conflict between a rule in 22 TAC Part 41 and Parts 21, 30, 34, and 35; the rules in Part 41 shall prevail.**

881.11. Access to Agency Records by Appointed Members.

- (a) Each member of the Council is entitled to access all information and records written, produced, collected, assembled, or maintained by the Council or a member board, including confidential information. The access granted under this subsection is limited to official agency business only.**
- (b) Each member of an underlying board is entitled to access all information and records written, produced, collected, assembled, or maintained by the member's respective board, including confidential information. The access granted under this subsection is limited to official agency business only.**
- (c) A request for access to information or records by a Council or board member must be directed to the Executive Director. If the request for access relates to the Executive Director, the request may be directed to the presiding officer for the Council and the General Counsel.**
- (d) Notwithstanding the foregoing, a Council or board member may not access any confidential, non-public, or proprietary examination materials if the member intends to apply for or is a current applicant for licensure with this agency.**

- 881.12. Statutory or Rule References. Unless expressly provided otherwise, a reference to any portion of a statute or rule applies to all reenactments, revisions, or amendments of the statute or rule.

Conduct and Decorum.

- (a) Persons having business with or interacting with the Council, member boards, or agency staff shall conduct themselves with proper dignity, courtesy, and respect. Disorderly or disruptive conduct will not be tolerated.
- (b) The presiding officers for the Council and member boards may, in their own discretion, exclude from a meeting or proceeding, a person who, with intent to prevent or disrupt an agency meeting or proceeding, obstructs or interferes with the meeting or proceeding by physical action or verbal utterance. A person excluded under this rule may be excluded for the remainder of the meeting or proceeding or for a shorter period of time as is deemed just and reasonable by the presiding officer.
- (c) Conduct or language directed at agency officials or staff by applicants or licensees that a reasonable person would find abusive or threatening is considered unprofessional conduct and may serve as grounds for a Council-initiated complaint and disciplinary action.

CHAPTER 881. GENERAL PROVISIONS

SUBCHAPTER B. RULEMAKING

22 TAC §§881.20-881.21

The Texas Behavioral Health Executive Council adopts new §§881.20-881.21, relating to rulemaking for the Executive Council. The new sections are adopted without changes to the proposed text as published in the April 24, 2020 issues of the *Texas Register* (45 TexReg 2643) and will not be republished.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 507.153 Tex. Occ. Code limits the ability of the Executive Council to adopt rules pertaining to qualifications for licensure, the scope and standards of practice, continuing educations requirements, and a schedule of sanctions unless such a rule is first proposed by a member board. Additionally, §2001.004 of the Tex. Gov't Code requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. These new rules are the general framework regarding the Executive Council's rulemaking procedures and proceedings.

List of interested groups or associations against the rule.

The Bluebonnet Counseling Association of Texas
The American Association for Marriage and Family Therapy
The Texas Counseling Association
The Texas Psychological Association
The Texas Association of Marriage and Family Therapy
The National Association of Social Workers - Texas Chapter
The Texas Society for Clinical Social Work

Summary of comments against the rule.

Commenters suggested changes to rule §881.20. Many requested grammatical changes, such as changing "must also" with "may only" because they felt §507.153 of the Tex. Occ. Code would require such a change. Generally, the commenters were concerned that rule §881.20 does not appropriately delineate the roles the Council and each underlying board will play in the rule making process or does not align with statutory intent.

Commenters suggested changes to rule §881.21. A commenter requested grammatical changes for the purposes of clarity. Other commenters requested the rule allow for petitions for rulemaking to be submitted directly to the appropriate boards instead of directly to the Council.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency disagrees that rule §881.20 usurps the authority of an underlying board or does not align with statutory intent. Sections 507.151 and 507.152 of the Tex. Occ. Code make it clear that all authority to administer, enforce, and adopt rules regarding the regulation of marriage and family therapists, professional counselors, psychologists, and social workers resides with the Council. While §507.153(a) of the Tex. Occ. Code does require that all rules concerning qualifications for licensure, scope of practice, continuing education requirements, and a schedule of sanction be first proposed by the applicable board; §507.153(c) and (d) of the Tex. Occ. Code states the council retains authority for final adoption of all rules and may adopt rules prescribing the procedure by which rules may be proposed to the Council. Rule §881.20 comports with this statutory mandate; and the commenters requested changes to this rule would impose limitations and restrictions upon the Council's review of rules proposed by boards that is not required by the Texas Occupations Code. The Council is required by law to review the rules proposed by boards and the agency disagrees that it should further restrict or limit its ability to do so, therefore the Council declines to make the requested changes.

Because the statutory authority for the adoption of all rules resides with the Council, then it is necessary for rule §881.21 to require all petitions for rulemaking to be directed to the Council. If a petition addresses a subject matter that by statute must first be proposed by a board, then under §507.151(b) of the Tex. Occ. Code the Council may request input or assistance from the applicable board. The Council also declines to make the requested grammatical changes because the rule, as drafted, does not appear to create any confusion or misunderstand to the general public.

For these reasons the agency declines to make the requested changes, and hereby adopts the rules with no changes.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council also adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

Lastly, the Executive Council adopts part of these new rules under the authority found in §2001.021 of the Tex. Gov't Code which requires state agencies to prescribe by rule the form for a petition for adoption of rules by interested persons and the procedure for its submission, consideration, and disposition.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER B - RULEMAKING

881.20. Rulemaking by the Executive Council.

- (a) The Council shall adopt rules necessary to perform its duties and implement Title 3, Subtitle I, Chapter 507 of the Occupations Code. When carrying out its rulemaking functions, the Council shall abide by the requirements of the Administrative Procedure Act found in Chapter 2001 of the Government Code.
- (b) The Council shall have exclusive rulemaking authority for the agency, including rules governing general agency operations, administration of licensure, investigation of complaints, and sanction procedures. In connection with this rulemaking authority, the Council must also review draft rules proposed by each member board for anti-competitive impacts, administrative consistency, and good governance concerns.
- (c) The Council may propose and adopt a rule governing those matters set forth in §507.153(a) of the Occupations Code if a draft rule has been proposed by the member board for the profession. Member boards may not propose new draft rules or changes to rules except as authorized by §507.153(a).
- (d) Member boards must submit a new draft rule or rule change to the Council for consideration by submitting a draft of the rule with any deletions crossed through and additions underlined. The draft must also contain each of the notice components required in a preamble (e.g., §2001.024 of the Government Code) when proposing a new rule or changes to an existing rule. When submitting a new draft rule or rule change to the Council, member boards must also submit any information or comments received from the public in connection with the proposed rule.
- (e) When reviewing a draft rule proposed by a member board, the Council may:

 - (1) Request additional information relevant to the rule from the member board;
 - (2) Require the member board to conduct new or additional analysis of possible implications of the rule;
 - (3) Solicit public comment or hold public hearings, or alternatively, request the member board do so; and
 - (4) Make non-substantive, editorial changes to the rule as necessary.

- (f) Following the review of a draft rule submitted by a member board, the Council shall either accept the draft rule as proposed and initiate formal rulemaking proceedings or return the draft rule to the member board for revision. When returning a rule for revision, the Council must include an explanation of the decision to reject the rule as proposed, and may recommend changes that would make the rule acceptable to the Council.
- (g) The Council shall, with regard to rules proposed pursuant to §507.153(a) of the Occupations Code, share with the appropriate member board any public comments received following publication of a proposed rule in the *Texas Register*. Following publication of a proposed rule and review of any public comments received, a member board shall suggest any changes needed to the proposed rule or vote to recommend adoption, tabling, or withdrawal of the rule and advise the Council of such. Thereafter, the Council may adopt the rule as proposed, withdraw or table the rule in accordance with the member board's recommendation, or return the rule to the member board for further revision. When returning a rule for revision, the Council must include an explanation of the decision to not adopt the rule as proposed, and may recommend any changes that would make the rule acceptable to the Council.
- (h) The Council may make non-substantive, editorial changes to a draft rule as necessary.
- (i) The Council shall consider each of the following factors when reviewing a draft rule submitted by a member board:
 - (1) Whether the proposed rule promotes a clearly articulated and affirmatively expressed policy as established by the legislature to displace competition with government action, or whether the proposed rule reflects the exercise of discretion or implied authority by a member board;
 - (2) Whether absence of the proposed rule poses a significant risk of harm or danger to the public health, safety, or welfare of the residents of the state that is easily recognizable and not remote or dependent on tenuous argument;
 - (3) Whether the proposed rule seeks to regulate activities or services requiring specialized skill or training and whether the public clearly needs and will benefit from the proposed rule;
 - (4) Whether the proposed rule would have the effect of directly or indirectly increasing the cost of mental health services and, if so, whether the increase would be more harmful to the public than the harm that might result from the absence of the proposed rule;

- (5) Whether the proposed rule would significantly reduce market participation or competition in the state and, if so, whether the reduction would be more harmful to the public than the harm that might result from the absence of the proposed rule; and
- (6) Whether the residents of the state are or may be effectively protected by other means.

881.21. Petition for Rulemaking.

- (a) Any interested person may petition for rulemaking in accordance with §2001.021 of the Government Code by submitting to the Council a written request for the adoption of a rule or rule change. The written request must contain a return mailing address for the agency's response.
- (b) The written request must, at a minimum, set forth or identify the rule the petitioner wants the Council to adopt or change, reasons why the petitioner believes the requested rulemaking is necessary, and include a copy of the proposed rule or any proposed changes with deletions crossed through and additions underlined. Additionally, the written request must affirmatively show that the requestor qualifies as an interested person under this rule. Requests which do not affirmatively show that the requestor qualifies as an interested person under this rule may be denied.
- (c) The written request should also address the economic cost to persons required to comply with the rule, the effects of the rule on small or micro-businesses or rural communities, and the impact the rule would have on local employment or economies, if such information can be derived from available sources without undue cost or burden.
- (d) The Council will respond to a written request for adoption of a rule from an interested person in accordance with §2001.021 of the Government Code.
- (e) The term "interested person" as used in this rule, shall have the same meaning as that assigned by §2001.021(d) of the Government Code. Additionally, a person who submits a petition under this rule must affirm that they qualify as an interested person in the petition. Petitions which do not contain such an affirmation may be denied.

CHAPTER 881. GENERAL PROVISIONS

SUBCHAPTER C. PERSONNEL

41 TAC §§881.30-881.32

The Texas Behavioral Health Executive Council adopts new §§881.30-881.32, relating to personnel for the Executive Council. The new sections are adopted without changes to the proposed text as published in the April 24, 2020 issues of the *Texas Register* (45 TexReg 2646) and will not be republished.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.101 and 507.102 of the Tex. Occ. Code authorizes the Executive Council to employ an executive director and develop policymaking and management responsibilities for the Executive Council and executive director. Additionally, §656.048 of the Tex. Gov't Code requires state agencies to adopt rules relating to training and education for agency administrators and employees. Lastly, §661.002 of the Tex. Gov't Code requires state agencies to adopt rules and prescribe procedures relating to the operation of the agency sick leave pool. These new rules implement these requirements.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

A commenter question why are more procedures needed than in the Government Code and Employees Retirement System of Texas pertaining to the sick leave pool.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

Section 661.002 of the Tex. Gov't Code requires state agencies to adopt rules and prescribe procedures relating to the operation of an agency sick leave pool, therefore the Executive Council must adopt rule §881.32.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts part of these new rules under the authority found in §656.048 of the Tex. Gov't Code which requires state agencies to adopt rules relating to training and education for agency administrators and employees.

Lastly, the Executive Council adopts these new rules pursuant to the authority found in §661.002 of the Tex. Gov't Code which requires state agencies to adopt rules and prescribe procedures relating to the operation of an agency sick leave pool.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER C – PERSONNEL

881.30. Executive Director.

- (a) The Council shall determine qualifications for and employ an Executive Director who shall be the Chief Executive Officer of the agency.**
- (b) The duties of the Executive Director shall be to administer and enforce the applicable law, to assist in conducting Council meetings, and to carry out other responsibilities as assigned by the Council.**
- (c) The Executive Director shall have the authority and responsibility for the operations and administration of the agency and such additional powers and duties as prescribed by the Council. As chief executive of the agency, the Executive Director shall be responsible for the management of all aspects of administration of the agency to include personnel, financial and other resources in support of the applicable law, rules, policies, mission and strategic plan of the agency. The Executive Director may delegate any responsibility or authority to an employee of the Council. Responsibility or authority granted to the Executive Director shall include an employee designated by the Executive Director, yet accountability to the Council for all management and activity rests with the Executive Director.**
- (d) The Executive Director may implement any emergency orders or proclamations issued by the Governor to suspend or amend existing statutes and rules. The Executive Director will notify the Council of the actions taken to comply with the Governor's emergency orders or proclamations.**

881.31. Agency Staff Training and Education.

- (a) In accordance with the State Employee Training Act found at Government Code, Chapter 656, Subchapter C, agency staff may be permitted or required to attend training or education programs if those programs relate to the employee's duties or prospective duties, materially aid effective administration of the agency's functions, and serve an important public purpose.
- (b) The Council's Executive Director shall be eligible to attend training and education programs, and shall determine which other employees will be permitted or required to attend training.
- (c) Employees who receive training must utilize the training opportunity to prepare for technological and legal developments facing the agency, or to increase professional capabilities or competence directly related to the work of the agency.
- (d) An employee, prior to receiving training for three or more months, during which the employee does not perform the employee's regular duties, must enter into a written agreement with the Council to comply with the requirements of §656.103(a) of the Government Code. Employees who fail or refuse to enter into such an agreement shall not be permitted to attend training lasting three or more months.
- (e) The Council shall pay the costs and expenses related to approved training in accordance with the State Employee Training Act, the Comptroller's rules and regulations, and the Council's own policies relating to employee reimbursement.

881.32. Sick Leave Pool.

- (a) The Council hereby establishes a sick leave pool to assist employees and their immediate families in dealing with catastrophic illness or injury that forces them to exhaust all accrued sick leave.**
- (b) The Council's sick leave pool shall be administered by the Executive Director in accordance with Chapter 661 of the Government Code, the rules and regulations of the Employees Retirement System of Texas, and the Texas Human Resources Statutes Inventory manual published by the Texas State Auditor's Office.**
- (c) The Executive Director shall develop and prescribe procedures for the operation of the sick leave pool, and include such procedures in the Council's personnel manual.**

CHAPTER 881. GENERAL PROVISIONS

SUBCHAPTER D. CONTRACTS AND PROCUREMENT

22 TAC §§881.40-881.41

The Texas Behavioral Health Executive Council adopts new §§881.40-881.41, relating to contracts and procurement for the Executive Council. The new sections are adopted without changes to the proposed text as published in the April 24, 2020 issues of the *Texas Register* (45 TexReg 2647) and will not be republished.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Section 2155.076 of the Tex. Gov't Code requires state agencies to develop and adopt protest procedures for resolving vendor protests relating to purchasing issues, which must be consistent with the comptroller's rules. Section 2156.005 of the Tex. Gov't Code requires state agencies making purchases to adopt the comptroller's rules related to bid opening and tabulation. Section 2260.052 of the Tex. Gov't Code requires state agencies with rulemaking authority to develop rules to govern the negotiation and mediation of a claim for breach of contract. Section 2261.202 of the Tex. Gov't Code requires state agencies that make procurements to establish and adopt by rule a policy that clearly defines the contract monitoring roles and responsibilities. Section 2161.003 of the Tex. Gov't Code requires a state agency to adopt the comptroller's rules adopted under Section 2161.002 of the Tex. Gov't Code, pertaining to historically underutilized businesses, as the agency's own rules. These new rules implement these requirements.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

Lastly, the Executive Council adopts these new rules pursuant to the authority found in §§2155.076, 2156.005, 2161.002, 2161.003, 2260.052, and 2261.202 of the Tex. Gov't Code which as previously discussed requires state agencies to enact rules pertaining to bidding, purchasing, contracting, procurement, protests, and dispute resolution.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER D – CONTRACTS AND PROCUREMENT

881.40. Agency Contracts and Purchasing.

- (a) In accordance with §2155.076 of the Government Code, the Council adopts by reference the rules of the Comptroller of Public Accounts regarding purchasing protest procedures set forth in 34 TAC, Part 1, Chapter 20, Subchapter F, Division 3. All vendor protests under this rule must be submitted to the Council's Chief Financial Officer, who shall initiate a review of the protest. Any appeal to a determination of a protest by the Chief Financial Officer shall be to the Executive Director, who may elect to submit the appeal to the Council for final determination. The Council shall maintain all documentation on the purchasing process that is the subject of a protest or appeal in accordance with the Council's retention schedule.
- (b) In accordance with §2156.005 of the Government Code, the Council adopts by reference the rules of the Comptroller of Public Accounts regarding bid opening and tabulation set forth in 34 TAC, Part 1, Chapter 20, Subchapter C, Division 2.
- (c) In accordance with §2260.052 of the Government Code, the Council adopts by reference the rules of the Office of the Attorney General in 1 TAC Part 3, Chapter 68 (relating to Negotiation and Mediation of Certain Contract Disputes). The rules set forth a process to permit parties to structure a negotiation or mediation in a manner that is most appropriate for a particular dispute regardless of the contract's complexity, subject matter, dollar amount, or method and time of performance.
- (d) In accordance with §2261.202 of the Government Code, the Executive Director shall be responsible for monitoring agency contracts and for monitoring agency compliance with all applicable laws governing agency contracting. The Executive Director may delegate those duties necessary to carry out this responsibility to other agency staff who report directly to the Executive Director.

- 881.41. Use of Historically Underutilized Businesses (HUBS). In accordance with §2161.003 of the Government Code, the Council adopts by reference the rules of the Comptroller of Public Accounts in 34 TAC Part 1, Chapter 20, Subchapter D, Division 1.



**Adopted Rules (Applications and Licensing)
for
Texas Behavioral Health Executive Council**

**Changes Recommended by OOG, Budget
and Policy Division (Bold)**

Table of Contents

SUBCHAPTER A – LICENSE APPLICATIONS.....	1
882.1. Application Process.....	1
882.2. General Application File Requirements.....	3
882.3. Review and Appeal of License Denials.	4
882.4. Assistance in Licensing Determinations.	5
882.5. Jurisprudence Examination Requirement.....	6
882.6. Limitation on Number of Examination Attempts.....	7
882.7. Reasonable Accommodations for Persons with Disabilities and Dyslexia.	8
882.8. Rescheduling of Examination Due to Religious Holy Day.....	9
882.9. Established Application Processing Times.	10
882.10. Applicants with Pending Complaints.....	11
882.11. Applicants with Foreign Degrees.....	12
882.12. Refusal to Issue License for Failure to Pay Child Support.	13
882.13. Protections Based On Affiliation with Religious Organizations.....	14
SUBCHAPTER B - LICENSE.....	15
882.20. Form of License.	15
882.21. License Statuses.	16
882.22. Reinstatement of a License.	18
882.23. License Required to Practice.....	20
882.24. Authorized Practice of Marriage and Family Therapy Without a License.....	21
882.25. Authorized Practice of Professional Counseling Without a License.....	22
882.26. Authorized Practice of Psychology Without a License.....	23
882.27. Authorized Practice of Social Work Without a License.	25
SUBCHAPTER C – DUTIES AND RESPONSIBILITIES.....	26
882.30. Display of License.....	26
882.31. Advertising Restrictions.....	27
882.32. Duty to Update Name and Address.....	28
882.33. Disclosure of Proprietary Examination Materials or Information Prohibited.	29
882.34. Filing of False or Misleading Information with the Council.....	30
882.35. Required Profile Information.	31
882.36. Compliance with State and Federal Law.....	32

SUBCHAPTER D – CRIMINAL HISTORY AND LICENSE ELIGIBILITY33

882.40. Criminal History Background Checks.33

882.41. Criminal History Evaluations.....34

882.42. Ineligibility Due to Criminal History.35

SUBCHAPTER E – CONTINUING EDUCATION37

882.50. Continuing Education and Audits.37

**SUBCHAPTER F – LICENSING PROVISIONS RELATED TO MILITARY SERVICE
MEMBERS, VETERANS, AND MILITARY SPOUSES38**

882.60. Special Provisions Applying to Military Service Members, Veterans, and Spouses.38

882.61. Special Licensing Provisions for Military Spouses.....40

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE41

882.70. Emergency Temporary License41

CHAPTER 882. APPLICATIONS AND LICENSING

SUBCHAPTER A. LICENSE APPLICATIONS

22 TAC §§882.1-882.13

The Texas Behavioral Health Executive Council adopts new §§882.1-882.13, relating to license applications. Except for §882.6, the new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2649) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §882.6 is being changed and adopted as republished below.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Section 507.254 of the Tex. Occ. Code authorizes the Executive Council to issue a license, which must also include the name of the applicable board. Generally, these new rules implement the application process and procedures which will be used by the Executive Council.

List of interested groups or associations against the rule.

The Bluebonnet Counseling Association of Texas
The Texas Counseling Association
The Texas Psychological Association
The Texas Association of Marriage and Family Therapists
The National Association of Social Workers - Texas Chapter
The Texas Society for Clinical Social Work

Summary of comments against the rule.

A commenter requested rule §882.1 be changed to no longer require a letter be sent notifying the applicant of the agency's determination and instructions for next steps. The commenter suggests replacing letters with email notifications. Another commenters recommends that the processing time periods for all applications be made the same. One commenter believes this rule conflicts with the rule pertaining to fees, rule §885.1, because this rule states applications with the incorrect fee amount will be returned while the fees rule states fees are non-refundable.

A commenter questioned whether rule §882.2, which requires transcripts be sent to the agency directly, will still allow for applicants that are students to still be able to be approved to take certain licensure exams prior to conferral of a degree. Another commenter requested the deletion of the requirement to use DHS-USCIS Systematic Alien Verification of Entitlements (SAVE) Program for the verification of immigration status of applicants because the commenter felt it was unnecessarily and burdensome.

A commenter requested changes to rule §882.3 for the purposes of clarity, to include the possible denial of an application for examination as well as an application for licensure.

A commenter requested rule §882.6 be changed to allow for a board to set the amount of times an applicant may retake an exam. Another commenter requested the rule be changed to allow an applicant that has failed an exam to practice under supervision of a licensed practitioner for several years to then make a recommendation regarding the candidate's licensure. A commenter also requested changes for the purpose of clarity.

Commenters requested changes to rule §882.9, they want the rule to state that the Council will publish processing times of applications for each license type.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The Administrative Procedures Act, Chapter 2001 of the Tex. Gov't Code, requires notification by certain means; therefore rule §882.1 must comport with these requirements and require notification by letter, although this rule does not prohibit the use of email when corresponding with applicants. Rule §882.1 does not conflict with rule §885.1 because the Council will not process an application until it is complete, which requires the Council to receive the correct fee amount. Once the correct fee amount is received it is non-refundable, and the application will be processed, but if the wrong amount is received it will be returned to the applicant to submit the correct amount. Rule §882.1 specifies different processing time periods for different license

types because that is the current practice in place, in the future the Council may reevaluate whether to make all the same but, due to data base restrictions, for the time being this rule will maintain the same time periods for the completeness of an application submission that currently exist.

Rule §882.2 must require that transcripts come directly from a verified source in order to ensure the authenticity of the submission. Depending upon a particular board, there may still be procedures for an applicant to be approved to sit for an examination prior to graduation but a license cannot be issued until the Council receives an official copy of a transcript verifying the conferral of a degree. The Council believes the utilization of the SAVE Program will make the application process easier for the verification of immigration status of applicants, additionally the use of the SAVE Program is required by federal law.

The Council declines to amend rule §882.3 as requested because the requested edits to add denial of exam applications to the rule appears unnecessary to the agency and does not appear to add any additional clarity to the rule.

Rule §882.6 is authorized and required, as written, because §507.253 of the Tex. Occ. Code states the Council shall, by rule, establish a limit on the number of exam retakes and the requirements for retaking an exam.

The Council declines to amend rule §882.9 as requested. While the Council's intent is to provide the public as much information as possible about processing times for licenses, depending upon what information and how it is stored by all the boards will determine what the Council will be able to publish. The rule as written will more accurately demonstrate the agency's workload. The agency does not see the need to include these requested changes in the rule, as the Council believes the general language currently in the rule is sufficient.

For these reasons the agency declines to make the requested changes, and hereby adopts the rules with no changes.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which

are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts these new rules in part under the authority found in §§2005.003 and 2005.006 of the Tex. Gov't Code which requires state agencies to adopt rules for processing applications and issuing licenses, as well as complaint procedures for the same.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER A – LICENSE APPLICATIONS

882.1. Application Process. Applications for licensure are processed in the following manner:

- (1) Applicants must submit for review an official application form, the corresponding application fee, and all information required by law to the Council. The responsibility for submitting a complete application resides solely with the applicant. An application submitted with the incorrect fee amount will be returned to the applicant.
- (2) Applications are reviewed in the order in which they are received, unless the applicant qualifies for expedited processing under §55.005 of the Occupations Code. Applicants who qualify for expedited processing will have their applications processed as soon as practicable. The Council will notify applicants of any deficiency in their application.
- (3) Applications for licensure under Chapters 502, 503, and 505 of the Occupations Code which are incomplete will be held open for one year from the date of receipt, after which, if still incomplete, they will expire. Applications for licensure under Chapter 501 of the Occupations Code which are incomplete will be held open for 90 days from the date of receipt, after which, if still incomplete, they will expire. If licensure is sought after an application has expired, a new application and filing fee must be submitted.
- (4) Applications containing a substantive problem with an applicant's qualifications that cannot be resolved by reviewing staff shall proceed through the following chain of review until such matter is resolved to the agency's satisfaction:
 - (A) Reviewing staff's immediate supervisor;
 - (B) Licensing Manager;
 - (C) Executive Director;
 - (D) Committee established by the member board for the profession charged with addressing application or licensing matters; and
 - (E) Full member board for the profession
- (5) Once an application is complete, the applicant is either approved or denied to sit for any required examinations, or approved or denied

licensure. Agency staff will send out a letter reflecting the agency's determination and instructions for the next steps needed, if any.

882.2. General Application File Requirements.

- (a) To be complete, an application file must contain all information needed to determine an applicant's eligibility to sit for the required examinations, or the information and examination results needed to determine an applicant's eligibility for licensure. At a minimum, all applications for licensure must contain:**

 - (1) An application in the form prescribed by the Council based on member board rules and corresponding fee(s);**
 - (2) An official transcript from a properly accredited institution indicating the date the degree required for licensure was awarded or conferred. Transcripts must be received by the Council directly from the awarding institution, a transcript or credential delivery service, or a credentials bank that utilizes primary source verification;**
 - (3) A fingerprint based criminal history record check through the Texas Department of Public Safety and the Federal Bureau of Investigation;**
 - (4) A self-query report from the National Practitioner Data Bank (NPDB) reflecting any disciplinary history or legal actions taken against the applicant. A self-query report must be submitted to the agency in the sealed envelope in which it was received from the NPDB;**
 - (5) Verification of the citizenship and immigration status information of non-citizen, naturalized, or derived U.S. citizen applicants through the DHS-USCIS Systematic Alien Verification for Entitlements Program (SAVE). Applicants must submit the documentation and information required by the SAVE program to the Council;**
 - (6) Examination results for any required examinations taken prior to applying for licensure;**
 - (7) Documentation of any required supervised experience, supervision plans, and agreements with supervisors; and**
 - (8) Any other information or supportive documentation deemed relevant by the Council and specified in its application materials.**
- (b) The Council will accept examination results and other documentation required or requested as part of the application process from a credentials bank that utilizes primary source verification.**

882.3. Review and Appeal of License Denials.

- (a) If an application for licensure is denied at the staff or committee level, the applicant will have 30 days from the date of denial as shown on the letter to submit a written request to the Council for review by the member board. The written request must be received on or before the 30th day following the date of denial for the request to be timely. If a timely written request for review is not made, the denial is final.
- (b) If an application for licensure is denied by a member board, the applicant will have 30 days from the date of denial as shown on the letter to submit a written request to the Council for a hearing at SOAH. The Council must receive the written request on or before the 30th day following the date of denial for the request to be timely. If a timely request is made, the Council shall refer the contested case to SOAH for a hearing. If a timely written request is not made, the denial is final.
- (c) The Council shall render a final decision on an application for licensure based upon the record following an appeal at SOAH. The final decision shall be in writing and shall be signed by the presiding officer for the Council or the Executive Director.

882.4. Assistance in Licensing Determinations.

- (a) Each member board shall be responsible for reviewing any licensing matters and questions raised or brought to it by agency staff regarding an application or renewal. The member boards may utilize committees to address application or licensing matters, and shall provide the Council with a recommendation as to any licensing matters or questions raised or brought to it by agency staff regarding an application or renewal.
- (b) The Council shall review all licensing matters for anti-competitive impacts, administrative consistency, and good governance concerns. The Council may not substitute its judgment in licensing determinations for that of a member board where, in its sole determination, none of the aforementioned concerns are present.
- (c) The Council shall solicit input from and request the assistance of a member board when considering an application for issuance or renewal of a license if there are concerns about an applicant related to the standard of care or professional qualifications. The Council may specify the format of the input and assistance requested to satisfy the requirements of this rule.

- 882.5. **Jurisprudence Examination Requirement.** Applicants must take and pass the jurisprudence examination no more than 6 months prior to submitting an application for licensure to the Council.

882.6. Limitation on Number of Examination Attempts.

- (a) An applicant may take an examination administered or required by the Council no more than three times. Failure to pass an examination subject to this rule within three attempts, will result in an automatic denial of an application.
- (b) **Notwithstanding subsection (a) of this section, an** ~~An~~ applicant whose application is denied under this rule may reapply for licensure, but will not be allowed or approved to sit for the exam again until the applicant has submitted a detailed study plan designed to address the known or suspected areas of deficiency. The study plan must be approved by the relevant member board before authorization will be given to retake the examination.
- (c) Examinations which do not require pre-authorization by the Council to take, are not subject to this rule.

882.7. Reasonable Accommodations for Persons with Disabilities and Dyslexia.

- (a) The Council shall comply with applicable provisions of the Americans with Disabilities Act (ADA) in its applications procedures by providing reasonable accommodations that do not violate or undermine the agency's mission or state law.
- (b) It is the responsibility of the individual applicant to inform the Council in advance of any reasonable accommodations needed during the application process, including any examinations conducted by the agency. Only requests which give the Council sufficient notice and opportunity to provide reasonable accommodations without disrupting the normal business of the agency will be considered.
- (c) Requests for reasonable accommodations under this rule must contain each of the following:

 - (1) a written description of the disability, as well as the functional limitations resulting from the disability;
 - (2) the specific accommodations requested;
 - (3) a description of any accommodations received in the past for the disability; and
 - (4) a formal medical or mental health diagnosis made or confirmed within the last five years by a licensed professional qualified to make the diagnosis describing the need for specific accommodations. The diagnosis must have been made or confirmed within the last 12 months for psychiatric disabilities. This requirement does not apply to physical or sensory disabilities of a permanent or unchanging nature.
- (d) The Council will provide reasonable examination accommodations to an applicant who has been diagnosed as having dyslexia, as defined in §51.970 of the Education Code. When requesting reasonable examination accommodations under this subsection, the applicant must comply with subsection (c) of this section.

882.8. Rescheduling of Examination Due to Religious Holy Day.

- (a) Applicants wishing to observe a religious holy day on which their religious beliefs prevent them from taking an examination scheduled by the Council on that religious holy day will be allowed to take the examination on an alternate date.**
- (b) Applicants wishing to take an examination, scheduled on a religious holy day, on an alternate date must submit a written request to take the examination on an alternate date and state the religious holy day they wish to observe. Applicants must submit their written request prior to being scheduled for an examination.**
- (c) The Council may extend any time periods for completing an examination, as needed when scheduling an alternate examination date.**

882.9. Established Application Processing Times.

- (a) The Council shall publish the minimum, maximum, and median times for processing applications during the preceding 12-month period on its website, together with a justification for each of these periods. These figures will be updated on an annual basis.
- (b) Applicants whose application processing time exceeds 90 days or the maximum processing time published on the agency's website, whichever is greater, may submit a written complaint to the Executive Director requesting a timely resolution of any dispute arising from the delay.
- (c) The Executive Director shall, upon receipt of a proper complaint, review the matter to determine whether the agency has good cause, as that term is defined in §2005.004 of the Government Code, for exceeding the maximum application processing time. If the maximum application processing time was exceeded and good cause is not found, the Council shall refund any application fee paid in connection with the delayed application.
- (d) There is no appeal of the determination made by the Executive Director under this rule. A complaint is waived if not filed within 30 days of licensure.

- 882.10. Applicants with Pending Complaints. The Council may hold an application in abeyance up to 180 days if there is a complaint pending against the applicant concerning an alleged violation listed in §507.301 of the Occupations Code. A final decision on the application may not be rendered until the Council has made a final determination on the pending complaint. The applicant will be permitted to take all required exams while the complaint is pending, but will not be licensed unless approved by the Council.

882.11. Applicants with Foreign Degrees.

- (a) An applicant with a foreign degree must submit an official transcript and certified translation when applying for licensure. The official transcript must be translated to English by the issuing institution, a translator that is certified by the American Translators Association, a reputable foreign translator or translation service, or a U.S. college or university official.
- (b) An applicant with a foreign degree must have the degree evaluated to determine if it is comparable to the degree required for the particular license sought. Foreign degree evaluations must be sent directly to the Council from the evaluation service, submitted by the applicant in the sealed envelope in which they are received from the evaluation service, or be submitted as directed by agency staff.
- (c) Foreign degree evaluations must be conducted by a foreign degree evaluation service that is a member of the National Association of Credential Evaluation Services (NACES). Alternatively, the Council will accept foreign degree evaluations from the National Register of Health Service Psychologists for persons applying under Chapter 501 of the Occupations Code and the International Social Work Degree Recognition and Evaluation Service for persons applying under Chapter 505 of the Occupations Code.
- (d) The Council retains the exclusive authority to determine whether a foreign degree is comparable to the degree required for licensure.

882.12. Refusal to Issue License for Failure to Pay Child Support.

- (a) The Council shall, in accordance with §232.0135 of the Family Code, refuse to issue a license to an individual if the Council receives notice from a child support agency that the applicant has failed to pay child support under a support order for six months or more and the child support agency requests the Council to deny issuance of a license.
- (b) Following receipt of notice from a child support agency, the Council may not issue a license until the child support agency has notified the Council that the applicant has met one or more of the requirements set out in §232.0135(b) of the Family Code.
- (c) The Council may charge the applicant a fee equal to the application fee for a refusal under this rule.

- 882.13. **Protections Based On Affiliation with Religious Organizations.** In accordance with Chapter 2400 of the Government Code, the Council may not deny an application or renewal of a license based wholly or partly on a person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization.

CHAPTER 882. APPLICATIONS AND LICENSING

SUBCHAPTER B. LICENSE

22 TAC §§882.20-882.27

The Texas Behavioral Health Executive Council adopts new §§882.20-882.27, relating to license. Except for §§882.22-882.23, the new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2652) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §882.6 is being changed and adopted as republished below.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Section 507.254 of the Tex. Occ. Code authorizes the Executive Council to issue a license, which must also include the name of the applicable board. Generally, these new rules provide the form and function for the licenses issued by the Executive Council.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

A commenter requested changes to rule §882.22(a) for consistency reasons. The commenter believes previously licensed marriage and family therapists seeking to reinstate a revoked license should be excepted from this rule to be consistent with §502.252(b)(7) of the Tex. Occ. Code.

A commenter requested edits to rule §882.26(c). The commenter believes the requirement that two or more psychologist be on staff limits opportunities for post-doctoral training and does not guarantee greater learning than if there was just one. Additionally, the commenter believes the minimum two hours per week of face-to-face supervision does not allow for supervision by technology or electronic means.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The lack of an exclusion or exception in rule §882.22(a) for LMFTs is unnecessary. Rule §881.10(a), pertaining to conflicts between other laws and council rules, would dictate that if a Council rule conflicted with a statute in the Texas Occupations Code, the statute would control. In this instance, rule §882.22(a) allows those with a prior license to apply for reinstatement with the Council. This does not guarantee that all prior revoked licensees will be reinstatement. An individual who had an LMFT revoked may still apply for reinstatement, but pursuant to §502.252(b)(7) the Tex. Occ. Code the Council would not be able to reinstate the license. Therefore rule §882.22(a) does not conflict with the Texas Occupations Code.

Rule §882.26(c) pertains to the criteria for a post-doctoral program to be considered substantially equivalent to an APA accredited or APPIC member program. An individual may always apply with the Council for licensure and once approved the individual may conduct a post-doctoral program required for licensure as a psychologist that is not APA accredited, an APPIC member program, or substantially equivalent. Therefore this rule does not limit the opportunity for post-doctoral training, it defines the pathway to complete this training prior to an application for licensure. Additionally, other rules, such as 22 Tex. Admin. Code §465.2, allow for supervision by electronic means.

For these reasons the agency declines to make the requested changes, and hereby adopts the rules with no changes.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER B - LICENSE

882.20. Form of License.

- (a) Each member board shall be responsible for the content and design of its licenses, subject to the approval of the Council. A license issued by the Council shall prominently reflect the member board for the profession and reference the board being a member of the Council.**
- (b) A license shall include the full legal name of the license holder at the time of licensure and the unique license number assigned to the license.**

882.21. License Statuses.

- (a) **Active Status.** Any licensee with a license on active status may practice pursuant to that license, subject to any restrictions imposed by the Council. Active status is the only status under which a licensee may engage in the practice of the licensee's respective profession.
- (b) **Inactive Status.**
 - (1) A licensee with an unrestricted active license may elect inactive status through the Council's online licensing system. A licensee who elects inactive status must return the licensee's current renewal certificate for the license to the Council, and pay the associated fee.
 - (2) A licensee with an inactive license is not required to comply with continuing education requirements while the license is inactive.
 - (3) The inactive status period for a license shall coincide with the license renewal period. At the end of the renewal period, if the inactive status has not been renewed or the license returned to active status, the license will expire.
 - (4) In order to continue on inactive status, an inactive licensee must renew the inactive status each renewal period. Licensees may renew their inactive status through the Council's online licensing system by completing the online renewal requirements and paying the associated fee.
 - (5) A licensee with a pending complaint may not place a license on inactive status. If disciplinary action is taken against a licensee's inactive license, the licensee must reactivate the license until the terms of the disciplinary action or restricted status have been terminated. Failure to reactivate a license when required by this paragraph shall constitute grounds for further disciplinary action.
 - (6) An inactive license may be reactivated at any time by submitting a written request to return to active status to the Council's office. When reactivating a license, a licensee must pay the renewal fee associated with the license. A license that has been reactivated is subject to the standard renewal schedule and requirements, including renewal and late fees. Notwithstanding the foregoing, a license that is reactivated within 60 days of its renewal date will be considered as having met all renewal requirements and will be renewed for the next renewal period.

- (7) Any licensee reactivating a license from inactive status must provide proof of completion of the continuing education requirements for renewal of that particular license before reactivation will occur.
- (8) A licensee wishing to reactivate a license that has been on inactive status for four years or more must take and pass the relevant jurisprudence exam with the minimum acceptable score, unless the licensee holds another license on active status within the same profession.
- (c) Delinquent Status. A licensee who fails to renew a license for any reason when required is considered to be on delinquent status. Any license delinquent for more than 12 consecutive months shall expire. A licensee may not engage in the practice of the licensee's respective profession under a delinquent license. The Council may sanction a delinquent licensee for violations of its rules.
- (d) Restricted Status. Any license that is currently suspended, on probated suspension, or is currently required to fulfill some requirements in an agency order is a restricted license.
- (e) Retirement Status. A licensee who is on active or inactive status may retire the license by notifying the Council in writing prior to the renewal date for the license. A licensee with a delinquent status may also retire the license by notifying the Council in writing prior to the license expiring. However, a licensee with a pending complaint or restricted license may not retire the license. A licensee who retires a license shall be reported to have retired in good standing.
- (f) Resignation Status. A licensee may resign only upon express agreement with the Council.
- (g) Expired Status. A license that has been delinquent for more than 12 consecutive months or any inactive license that is not renewed or reactivated is considered to be expired.
- (h) Revoked Status. A revoked status results from a license being revoked pursuant to an agency order.

882.22. Reinstatement of a License.

- (a) A person whose license has expired or been retired, revoked, or resigned, may apply for reinstatement of the license. A person seeking re-licensure must apply for reinstatement, rather than applying for a new license.
- (b) An application for reinstatement shall be in writing and in the form prescribed by the Council.
- (c) In the case of revocation or resignation, application for reinstatement shall not be made prior to one year after the effective date of the revocation or resignation or prior to any time period specified in the order of revocation or resignation. A person whose license was revoked under §108.053 may apply for reinstatement of the license if the person meets the requirements of §108.055 of the Occupations Code.
- (d) A person seeking reinstatement of a license shall appear ~~in-person~~ before the Council or member board to answer any questions or address any concerns raised by the person's application if requested by a council or board member or the Executive Director. Failure to comply with this paragraph shall constitute grounds for denial of the application for reinstatement.
- (e) The Council may approve or deny an application for reinstatement, and in the case of a denial, the Council may also set a reasonable period that must elapse before another application may be filed. The Council may also impose reasonable terms and conditions that an applicant must satisfy before reinstatement of an unrestricted license.
- (f) An application for reinstatement of an expired, retired, revoked, or resigned license may be granted upon proof of each of the following:
 - (1) payment of the application fee;
 - (2) submission of a self-query report from the National Practitioner Data Bank (NPDB) reflecting any disciplinary history or legal actions taken against the applicant. A self-query report must be submitted to the agency in the sealed envelope in which it was received from the NPDB;
 - (3) a fingerprint based criminal history check which reflects no disqualifying criminal history;
 - (4) passage of any examinations required by a member board;

- (5) documentation of any continuing education required by a member board; and
 - (6) submission of any other documentation or information requested in the application or which the Council or a member board may deem necessary in order to ensure the public's safety.
- (g) The Council will evaluate each of the following criteria when considering reinstatement of an expired, revoked, or resigned license:
 - (1) circumstances surrounding the expiration, revocation, or resignation of the license;
 - (2) conduct of the applicant subsequent to the expiration, revocation, or resignation of the license;
 - (3) lapse of time since the expiration, revocation, or resignation of the license;
 - (4) compliance with all terms and conditions imposed by the Council or a member board in any previous order; and
 - (5) applicant's present qualification to practice the regulated profession based upon the history of related employment, service, education, or training, as well as the applicant's continuing education since the expiration, revocation, or resignation of the license.
- (h) Notwithstanding time limits on original applications and examinations found elsewhere in these rules, an applicant seeking reinstatement of a license must submit all required documentation and information, and successfully pass all required examinations within the period specified by the Council. Failure to do so shall result in the application for reinstatement expiring.

882.23. License Required to Practice.

- (a) A person may not engage in or represent that the person is engaged in the practice of marriage and family therapy, professional counseling, psychology, or social work within this state, unless the person is licensed or otherwise authorized to practice by law.
- (b) A person is engaged in the practice of marriage and family therapy within this state if any of the criteria set out in §502.002(6) of the **Occupations Code Licensed Marriage and Family Therapist Act** occurs either in whole or in part in this state.
- (c) A person is engaged in the practice of professional counseling within this state if any of the criteria set out in §503.003(a) of the **Occupations Code Licensed Professional Counselor Act** occurs either in whole or in part in this state.
- (d) A person is engaged in the practice of psychology within this state if any of the criteria set out in §501.003(b) of the **Occupations Code Psychologists' Licensing Act** occurs either in whole or in part in this state.
- (e) A person is engaged in the practice of social work within this state if any of the criteria set out in §505.0025 of the **Occupations Code Social Work Practice Act** occurs either in whole or in part in this state.

- 882.24. Authorized Practice of Marriage and Family Therapy Without a License.
Notwithstanding Rule §882.23 of this chapter, the activities or services described in §502.004 of the Licensed Marriage and Family Therapist Act are exempt from the Council's jurisdiction and do not require a license.

-
- 882.25. **Authorized Practice of Professional Counseling Without a License.**
Notwithstanding Rule §882.23 of this chapter, the activities or services described in Subchapter B of the Licensed Professional Counselor Act, together with the use of titles and descriptions of persons as contemplated therein, are exempt from the Council's jurisdiction and do not require a license.

882.26. Authorized Practice of Psychology Without a License.

- (a) Notwithstanding Rule §882.23 of the chapter, the activities or services described in §501.004 of the Psychologists' Licensing Act are exempt from the Council's jurisdiction and do not require a license.
- (b) The activity or service of a post-doctoral fellow or resident in psychology is exempt from the Council's jurisdiction pursuant to §501.004(a)(2) of the Psychologists' Licensing Act if all of the following criteria are met:
 - (1) The person is enrolled in a formal post-doctoral program that is:
 - (A) accredited by the American Psychological Association (APA) or is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or
 - (B) substantially equivalent to a program described in subparagraph (A) of this paragraph;
 - (2) The activities or services take place under qualified supervision and are part of the formal post-doctoral program; and
 - (3) The person is designated as a psychological intern or trainee, or by another title that clearly indicates the person's training status.
- (c) A formal post-doctoral program which meets the following criteria will be considered substantially equivalent to an APA accredited or APPIC member program:
 - (1) An organized experience with a planned and programmed sequence of supervised training experiences.
 - (2) A designated psychologist responsible for the program who possesses expertise or competence in the program's area.
 - (3) Two or more licensed psychologists on staff, at least one designated as supervisor with expertise in area of practice.
 - (4) A minimum of 2 hours per week of face-to-face supervision.
 - (5) A minimum of 2 additional hours per week of learning activities.
 - (6) A minimum of 25% of the fellow's time is spent providing professional psychological services.

- (7) Admission requirements that require the applicant to complete all professional degree requirements and a pre-doc internship, which at a minimum meets Council requirements.
- (8) A requirement that participants use titles such as intern, resident, fellow, or trainee.
- (9) Documentation describing the goals, content, organization, entrance requirements, staff, mechanisms for a minimum of 2 evaluations per year, and a statement that the program meets Texas' licensure requirements.
- (10) At a minimum, an informal due process procedure regarding deficiencies and grievances.
- (11) A written requirement for at least 1500 hours to be completed in not less than 9 months and not more than 24 months.

882.27. Authorized Practice of Social Work Without a License. Notwithstanding Rule §882.23, the activities or services described in §505.003 of the Social Work Practice Act are exempt from the Council's jurisdiction and do not require a license.

CHAPTER 882. APPLICATIONS AND LICENSING

SUBCHAPTER C. DUTIES AND RESPONSIBILITIES

22 TAC §§882.30-882.36

The Texas Behavioral Health Executive Council adopts new §§882.30-882.36, relating to duties and responsibilities. The new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2655) and will not be republished.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Section 507.254 of the Tex. Occ. Code authorizes the Executive Council to issue a license, which must also include the name of the applicable board. These new rules pertain to the duties and responsibilities of applicants going through the application process and licensees once they have obtained a license, which generally prohibit false or deceptive statements or practices.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

A commenter is concerned that rule §882.30(b) does not treat all license types equally and requests the rule be a single unified standard for all license types.

A commenter believes rule §882.32(a) requires licensees to be responsible for ensuring adequate record keeping for the agency and believes licensee cannot make sure the agency does the right thing with the information provided.

One commenter requested the addition of the word "must" to rule §882.36(a) for grammatical reasons. Another commenter requested the inclusion of Chapter 104 and 107 of the Texas Family Code in this rule.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

Pursuant to Tex. Occ. Code §§502.261(a) and 503.314(a) a marriage and family therapist and a licensed professional counselor must, respectively, display a copy of their license at their principle place of practice or in an appropriate and public manner. Therefore rule §882.30(b) must provide an exception for those licensed under Chapters 502 and 503 because Texas law will not allow them to provide a patient or client only written notification of a holder's license number along with instructions for verification.

Rule §882.32(a) requires licensee to update their contact information in the Council's online licensing system. A licensee will be responsible for entering the required information into this system, which the licensee will be able to check online. All data entry will be done by the licensee, there is no basis to think that the agency will manipulate, alter, or not use this data.

The addition of the word "must" in rule §882.36(a) would have no effect on this rule, and the agency does not find that this requested change is necessary to clear up any potential public confusion or misunderstanding of this rule. Rule §882.36 provides references to many of the statutes effecting a licensee's practice, but the rule is not intended to be an exhaustive list of every statute that could have an effect on a licensee. Citations to the Texas Family Code, specifically Chapter 107, are included in other rules of practice which a licensee should already be aware of before conducting any practice in the areas governed by the Texas Family Code; therefore the Council declines to add additional statutory references to this rule.

For these reasons the agency declines to make the requested changes, and hereby adopts the rules with no changes.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which

are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER C – DUTIES AND RESPONSIBILITIES

882.30. Display of License.

- (a) A licensee must display an official copy of the holder's license in a prominent place in the office, building, complex, or facility where services are delivered. An official copy of a license is the original or a copy issued by the Council bearing the state agency's seal.**
- (b) In lieu of subsection (a) of this section, a person licensed under Chapter 501 or 505 may provide to a patient or client written notification of the holder's license number accompanied by instructions for verification of same.**

- 882.31. **Advertising Restrictions.** Licensees may not authorize, use, or make any public statements or advertisements that are false, deceptive, misleading or fraudulent, either because of what they state, convey or suggest or what they omit concerning their own training, experience, supervision status, abilities or competence; their academic degrees; their credentials; their institutional or association affiliations; or their publications or research.

882.32. Duty to Update Name and Address.

- (a) Applicants and licensees must update their name, main address, business address, email address, and phone number in the Council's online licensing system within 30 days of a change. The main address entered by an applicant or licensee must be capable of receiving mail addressed to the applicant or licensee from the agency. It is the responsibility of the individual to ensure the agency has the correct contact information for that individual.
- (b) Official agency correspondence will be sent to an applicant's or licensee's main address, unless otherwise required by law. The street address portion of an applicant's or licensee's main address will not be displayed in results returned from the online licensee search function, but will continue to be publicly available via the Public Information Act. Applicants and licensees may also enter a business address in the agency's online licensing system which will be displayed, without redaction, in public search results.
- (c) A name change request must be accompanied by a copy of a current driver's license, social security card, marriage license, divorce decree or court order reflecting the change of name.

- 882.33. **Disclosure of Proprietary Examination Materials or Information Prohibited.** It is considered unprofessional conduct and grounds for disciplinary action, including denial of licensure or renewal, for any applicant or licensee to disclose the contents or any proprietary materials or information from the examinations utilized by the Council.

882.34. Filing of False or Misleading Information with the Council.

- (a) Applicants.** Applicants are prohibited from providing false or misleading statements, information, or omissions in their applications, documents, and communications with the Council or member boards. For an infraction of this type, the Council may agree to process an application or other document pursuant to an eligibility order. For a serious infraction of this type that could lead to licensure of an unqualified person, the Council may deny licensure.
- (b) Licensees.** The Council will open a complaint against a licensee for false or misleading statements, information, or omissions made in connection with an application, renewal, document, or other communication with the Council. For an infraction that led to the licensure or renewal of an unqualified person or a change in license status, the Council may revoke the license or deny any future renewal of the license.

882.35. Required Profile Information. Pursuant to §2054.2606 of the Government Code, all licensed psychologists must establish and maintain a public profile within the profile system maintained by the Council. The licensee's profile must contain all of the following information:

- (1) the name of the license holder and the address and telephone number of the license holder's primary practice location;
- (2) whether the license holder's patient, client, user, customer, or consumer service areas, as applicable, are accessible to disabled persons, as defined by federal law;
- (3) the type of language translating services, including translating services for a person with impairment of hearing, that the license holder provides for patients, clients, users, customers, or consumers, as applicable;
- (4) if applicable, insurance information, including whether the license holder participates in the state child health plan under Chapter 62, Health and Safety Code, or the Medicaid program;
- (5) the education and training received by the license holder, as required by the licensing entity;
- (6) any specialty certification held by the license holder;
- (7) the number of years the person has practiced as a license holder; and
- (8) if applicable, any hospital affiliation of the license holder.

882.36. Compliance with State and Federal Law. Licensees comply with all applicable state and federal laws affecting the practice of marriage and family therapy, professional counseling, psychology, or social work including, but not limited to:

- (1) Health and Safety Code, Chapter 611, Mental Health Records;
- (2) Family Code:
 - (A) Chapter 32, Consent to Medical, Dental, Psychological and Surgical Treatment,
 - (B) Chapter 153, Rights to Parents and Other Conservators to Consent to Treatment and Access to Child's Records, and
 - (C) Chapter 261, Duty to Report Child Abuse and Neglect;
- (3) Human Resource Code, Chapter 48, Duty to Report Elder Abuse and Neglect;
- (4) Civil Practice and Remedy Code, Chapter 81, Duty to Report Sexual Exploitation of a Patient by a Mental Health Services Provider;
- (5) Insurance Code as it relates to submission of billing and third-party payments for mental health services provided by a licensee;
- (6) Code of Criminal Procedure, Chapter 46B, Incompetency to Stand Trial, and Chapter 46C, Insanity Defense;
- (7) Occupations Code, Chapter 102, Solicitation of Patients; Chapter 104, Healing Art Practitioners; Chapter 105, Unprofessional Conduct; and Chapter 113, Mental Health Telemedicine and Telehealth Services;
- (8) Education Code, Chapter 51, Duty to Report Sexual Harassment and Assault, Dating Violence, and Stalking; and
- (9) 18 United States Code §1347 Health Care Fraud.

CHAPTER 882. APPLICATIONS AND LICENSING

SUBCHAPTER D. CRIMINAL HISTORY AND LICENSE ELIGIBILITY

22 TAC §§882.40-882.42

The Texas Behavioral Health Executive Council adopts new §§882.40-882.42, relating to criminal history and license eligibility. Except for §882.42, the new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2658) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §882.42 is being changed and adopted as republished below.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Section 507.254 of the Tex. Occ. Code authorizes the Executive Council to issue a license, which must also include the name of the applicable board; and §507.156 of the Tex. Occ. Code requires the Executive Council to adopt rules pertaining to the Executive Council's authority to revoke, suspend, or deny a license based upon a criminal conviction. These new rules implement this statutory duty.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

A commenter was concerned that subsections (b) and (d) of rule §882.40 contradicted each other and subsection (c) will allow licensees to renew a license by merely being fingerprinted and not completing any other renewal requirement.

One commenter requested the addition of the word "based" to fingerprint criminal history background checks in rule §882.41(d) for consistency reasons.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

Rule §882.40(b) is a standalone requirement, it can apply to any licensee at any time, and does not contradict any other subsection of this rule. Subsection (c) of the rule deals with licensees who have not yet been required to complete a criminal history background check, and it does not waive any requirements for the renewal of a license. Subsection (d) of the rule pertains solely to those applicants who have already completed a criminal history background check and it exempts them from subsection (c).

The addition of the word "based" in rule §882.41(d) to describe the fingerprint criminal history background check would have no effect on this rule, the same term was used in rule §882.60(e), and the agency does not find that this requested change is necessary to clear up any potential public confusion or misunderstanding of this rule.

For these reasons the agency declines to make the requested changes, and hereby adopts the rules with no changes.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts these new rules pursuant to the authority found in §507.156 of the Tex. Occ. Code which requires the Executive Council to adopt rules necessary to comply with Chapter 53 of the Tex. Occ. Code.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER D – CRIMINAL HISTORY AND LICENSE ELIGIBILITY

882.40. Criminal History Background Checks.

- (a) Before the Council will issue a license, an applicant must undergo a fingerprint-based criminal history record check.**
- (b) The Council may require a licensee to obtain an updated fingerprint-based criminal history record check at any time.**
- (c) A licensee who was not required to undergo a fingerprint based criminal history record check as a condition of licensure, must undergo a fingerprint based criminal history check if directed by the Council as a condition for renewal of a license. A licensee may fulfill all other renewal requirements, but a report must be received by the Council from the Texas Department of Public Safety and the Federal Bureau of Investigation before a license will be renewed.**
- (d) Applicants and licensees who hold a license issued by the Council or one of its member boards and who underwent a fingerprint-based criminal history record check as part of the licensing process for that license, do not need to undergo another check.**

882.41. Criminal History Evaluations.

- (a) In compliance with Chapter 53 of the Occupations Code, the Council will provide criminal history evaluation letters.
- (b) A person may request the Council provide a criminal history evaluation letter if the person is planning to enroll or is enrolled in an educational program that prepares the person for a license with this agency and the person has reason to believe that the person may be ineligible for licensure due to a conviction or deferred adjudication for a felony or misdemeanor offense.
- (c) The requestor must submit to the Council a completed application form requesting an evaluation letter, the required fee, and certified copies of court documentation about all convictions, deferred adjudications, or other final dispositions which may form the basis for the person's ineligibility.
- (d) Requestors must obtain a fingerprint criminal history record check after they have submitted an application for a criminal history evaluation letter.
- (e) The Council has the authority to investigate a request for a criminal history evaluation letter and may require the requestor to provide additional information about the convictions and other dispositions.
- (f) The Council will provide a written response to the requestor within 90 days of receipt of the request, unless a more extensive investigation is required or the requestor fails to comply with the Council's investigation.
- (g) In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the licensing authority at the time the letter is issued, the Council's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

882.42. Ineligibility Due to Criminal History.

- (a) The Council may revoke or suspend a license, disqualify a person from receiving or renewing a license, or deny a person the opportunity to be examined for a license due to a felony or misdemeanor conviction, or a plea of guilty or nolo contendere followed by deferred adjudication, if the offense:
 - ~~(1) — directly relates to the duties and responsibilities of a licensee;~~
 - ~~(1)(2)-~~ is listed in Article 42A.054 of the Code of Criminal Procedure; ~~or~~
 - ~~(2)(3)-~~ was a sexually violent offense, as defined by Article 62.001 of the Code of Criminal Procedure or;
 - (3) directly relates to the duties and responsibilities of a licensee.
- (b) In determining whether a criminal conviction directly relates to the duties and responsibilities of a licensee, the agency shall consider the factors listed in §53.022 of the Occupations Code. Each member board shall determine which crimes are directly related to the duties and responsibilities of its licensees.
- (c) If the agency determines that a criminal conviction directly relates to the duties and responsibilities of a licensee, the agency must consider the factors listed in §53.023 of the Occupations Code when determining whether to suspend or revoke a license, disqualify a person from receiving a license, or deny a person the opportunity to take a licensing examination. It shall be the responsibility of the applicant or licensee to provide documentation or explanations concerning each of the factors listed in the law. Any documentation or explanations received will be considered by the agency when deciding whether to suspend or revoke a license, disqualify a person from receiving a license, or deny a person the opportunity to take a licensing examination.
- (d) Notwithstanding any schedule of sanctions adopted by the Council or a member board, the Council shall:
 - (1) revoke a license due to a felony conviction under §35A.02 of the Penal Code, concerning Medicaid fraud, in accordance with §36.132 of the Human Resources Code;
 - (2) revoke or suspend a license for unprofessional conduct in accordance with §105.002 of the Occupations Code; and

- (3) revoke a license due to a license holder's imprisonment following a felony conviction, felony community supervision revocation, revocation of parole, or revocation of mandatory supervision.
- (e) In accordance with Chapter 108 of the Occupations Code, an application for licensure as a psychologist or social worker will be denied if the applicant:
- (1) is required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure;
 - (2) has been previously convicted of or placed on deferred adjudication for the commission of a felony offense involving the use or threat of force; or
 - (3) has been previously convicted of or placed on deferred adjudication for the commission of an offense:
 - (A) under §§22.011, 22.02, 22.021 or 22.04 of the Penal Code, or an offense under the laws of another state or federal law that is equivalent to an offense under one of those sections;
 - (B) during the course of providing services as a health care professional; and
 - (C) in which the victim of the offense was a patient.
- (f) A person whose application was denied under subsection (e) of this section may reapply for licensure if the person meets the requirements of §108.054 of the Occupations Code.
- (g) In accordance with §108.053 of the Occupations Code, the Council shall revoke the license of a psychologist or social worker if the licensee is:
- (1) convicted or placed on deferred adjudication for an offense described by subsection (e)(2) or (3) of this section; or
 - (2) required to register as a sex offender under Chapter 62 of the Code of Criminal Procedure.
- (h) The Council will provide notice to a person whose application has been denied due to criminal history as required by §53.0231 and §53.051 of the Occupations Code.

CHAPTER 882. RENEWALS

SUBCHAPTER E. CONTINUING EDUCATION

22 TAC §882.50

The Texas Behavioral Health Executive Council adopts new §882.50, relating to continuing education. The new section is adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2660) and will not be republished.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Section 507.254 of the Tex. Occ. Code authorizes the Executive Council to issue a license, which must also include the name of the applicable board. In order to maintain and renew a license, each license holder is required to obtain a minimum amount of education per renewal period in order to renew a license. Each applicable board will determine the minimum amount of required education and the Executive Council will ensure compliance. This new rule pertains to the Executive Council's ability to audit license holders for compliance purposes.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

A commenter requested the rule reference that inactive status licensees do not have to comply with this rule. Other commenters were concerned that the rule would result in 10% of all licensees being audited every month, which would could result in over auditing and be more burdensome than beneficial to licensees and the agency.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

Rule §882.21(b)(2) already states that inactive licensees do not have to comply with continuing education requirements while the license is inactive, restating the same in §882.50 would be duplicative and unnecessary.

Rule §882.50(a) requires all licensee to complete the minimum amount of continuing education required to renew a license for each renewal period. Rule §882.50(b) allows the agency to conduct audits of licensees to ensure compliance with the continuing education requirements. Every month, a group of licensees will be required to renew their license and under §882.50(b)(1) 10% of these licensees will be subject to an audit, and, as the rule states, they will need to show compliance before their license will be renewed. Therefore, the only licensees that will be subject to the random audits of rule §882.50(b)(1) will be those renewing their license.

For these reasons the agency declines to make the requested changes, and hereby adopts the rule with no changes.

Statutory Authority.

The new rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this new rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER E – CONTINUING EDUCATION

882.50. Continuing Education and Audits.

- (a) All persons issued a license by the Council are obligated to continue their professional education by completing a minimum amount of continuing education during each renewal period that they hold a license from this agency. The specific continuing education requirements for a license holder will be determined by the member board authorized to set those requirements.
- (b) The Council conducts two types of audits regarding continuing education. Licensees shall comply with all agency requests for documentation and information concerning compliance with continuing education requirements.

 - (1) Random audits. Each month, 10% of the licensees will be selected by an automated process for an audit of the licensee's compliance with the agency's continuing education requirements. The agency will notify a licensee of the audit. Upon receipt of an audit notification, a licensee must submit continuing education documentation through the agency's online licensing system, or by fax, email, or regular mail before a license will be renewed.
 - (2) Individualized audits. The Council may also conduct audits of a specific licensee's compliance with its continuing education requirements at any time the agency determines there are grounds to believe that a licensee has not complied with the requirements of this rule. Upon receipt of notification of an individualized audit, the licensee must submit all requested documentation within the time period specified in the notification.

CHAPTER 882. APPLICATIONS AND LICENSING

SUBCHAPTER F. LICENSING PROVISIONS RELATED TO MILITARY SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES

22 TAC §§882.60-882.61

The Texas Behavioral Health Executive Council adopts new §§882.60-882.61, relating to licensing provisions related to military service members, veterans, and military spouses. The new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2661) and will not be republished.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Section 507.254 of the Tex. Occ. Code authorizes the Executive Council to issue a license, which must also include the name of the applicable board. Chapter 55 of the Tex. Occ. Code requires state agencies that issue a license to adopt rules pertaining to licensing eligibility requirements for military service members, veterans, and spouses. These new rules implement this statutory duty.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

One commenter requested the addition of the word "based" to fingerprint criminal history background checks in rule §882.60(e) for consistency reasons.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

One commenter thought the addition of rule 882.61 was an excellent change.

Agency Response.

The addition of the word "based" in rule §882.60(e) to describe the fingerprint criminal history background check would have no effect on this rule, the same term was used in rule §882.41(d), and the agency does not find that this requested change is necessary to clear up any potential public confusion or misunderstanding of this rule. For these reasons the agency declines to make the requested change, and hereby adopts the rule with no changes.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts these new rules pursuant to the authority found in §507.156 of the Tex. Occ. Code which requires the Executive Council to adopt rules necessary to comply with Chapter 53 of the Tex. Occ. Code.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER F – LICENSING PROVISIONS RELATED TO MILITARY SERVICE MEMBERS, VETERANS, AND MILITARY SPOUSES

- 882.60. Special Provisions Applying to Military Service Members, Veterans, and Spouses.
- (a) The Council adopts by reference the definitions set forth in Chapter 55 of the Occupations Code.
 - (b) A license may be issued to a military service member, military veteran, or military spouse upon proof of one of the following:
 - (1) the applicant holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license sought in this state; or
 - (2) within the five years preceding the application date, the applicant held the license sought in this state.
 - (c) An applicant applying as a military spouse must submit proof of marriage to a military service member.
 - (d) Each member board shall develop and maintain a method for determining substantial equivalency under subsection (b) of this section.
 - (e) As part of the application process, the Executive Director may waive any prerequisite for obtaining a license, other than the requirements in subsection (b) of this section, the jurisprudence examination, and the fingerprint criminal history background check, if it is determined that the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought. When making this determination, the Executive Director must consult with the relevant member board or its designated application or licensing committee and consider the board's or committee's input and recommendations. In the event the Executive Director does not follow a recommendation of the board or committee, the Executive Director must submit a written explanation to the board or committee explaining why its recommendation was not followed. No waiver may be granted where a military service member or military veteran holds a license issued by another jurisdiction that has been restricted, or where the applicant has a disqualifying criminal history.
 - (f) Each member board may develop and maintain alternate methods for a military service member, military veteran, or military spouse to

demonstrate competency in meeting the requirements for obtaining a license.

- (g) Each member board shall develop and maintain a method for applying credit toward license eligibility requirements for applicants who are military service members or military veterans with verifiable military service, training, or education. An applicant may not receive credit toward licensing requirements under this subsection if the applicant holds another license that has been restricted, or the applicant has a disqualifying criminal history.
- (h) The initial renewal date for a license issued pursuant to this rule shall be set in accordance with the agency's rule governing initial renewal dates.

882.61. Special Licensing Provisions for Military Spouses.

- (a) A military spouse shall be issued a license to marriage and family therapy, professional counseling, practice psychology, or social work if the person meets each of the following requirements:
 - (1) the spouse notifies the Council on an agency approved form, of the spouse's intent to practice a particular profession in this state;
 - (2) the spouse provides verification of licensure in good standing in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for licensure in this state;
 - (3) the spouse submits a copy of the law reflecting the current licensing standards for the relevant profession in the state where the spouse is licensed, with the relevant portions highlighted for easy reference;
 - (4) the spouse submits proof of residency in this state and a copy of the spouse's military identification card; and
 - (5) the Council provides confirmation to the spouse that it has verified the spouse's license in the other jurisdiction and that the spouse is authorized to practice a particular profession.
- (b) The Council shall determine substantial equivalency based upon the determinations made by the member boards under subsection §882.60(d) of this chapter.
- (c) The Council may rely upon the following when verifying licensure under this subsection: official verification received directly from the other jurisdiction, a government website reflecting active licensure and good standing, or verbal or email verification directly from the other jurisdiction.
- (d) A military spouse issued a license under this rule is subject to all laws and regulations in the same manner as a regularly licensed provider.
- (e) A license issued under this rule is valid while the holder's spouse is stationed at a military installation in this state or for three years from the date of issuance, whichever is less. A license issued under this rule cannot be renewed or extended.

CHAPTER 882. RENEWALS

SUBCHAPTER G. EMERGENCY TEMPORARY LICENSE

22 TAC §§882.70

The Texas Behavioral Health Executive Council adopts new §882.70, relating to emergency temporary license. The new section is adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2663) and will not be republished.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Section 507.254 of the Tex. Occ. Code authorizes the Executive Council to issue a license, which must also include the name of the applicable board. Sections 501.263, 502.258, 503.308, and 505.357 of the Tex. Occ. Code require the adoption of rules for the Executive Council to issue a temporary license. This new rule implements this statutory duty.

List of interested groups or associations against the rule.

The Bluebonnet Counseling Association of Texas
The Texas Counseling Association
The Texas Psychological Association
The Texas Association of Marriage and Family Therapists
The National Association of Social Workers - Texas
The Texas Society for Clinical Social Work

Summary of comments against the rule.

Commenters have requested rule §882.70, pertaining to emergency temporary license, be amended to allow out-of-state licensees who are not in good standing the ability to apply for and be granted temporary licensure. Additionally, one commenter requested the emergency temporary license be made available for those applicants needing a job but waiting for the agency to process the application.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

To allow out-of-state licensees who are not in good standing, meaning they are subject to a current disciplinary action, to apply for and be granted emergency temporary licenses would be antithetical to the mission of this agency - to protect the public. Once the out-of-state licensee is no longer subject to a disciplinary action then the licensee may apply, but to allow potential bad actors a pathway to temporary licensure will increase the potential for more harm. The purpose for the emergency temporary license is to allow out-of-state licensees to provide services in Texas in response to a disaster, therefore this licensing rule is not something that should be used for the typical or regular licensing process. For these reasons the agency declines to make the requested changes, and hereby adopts the rule with no changes.

Statutory Authority.

The new rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this new rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts this new rule pursuant to the authority found in §§501.263, 502.258, 503.308, and 505.357 of the Tex. Occ. Code which requires the Executive Council to adopt rules for the issuance of temporary licenses.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER G – EMERGENCY TEMPORARY LICENSE

882.70. Emergency Temporary License.

- (a) The Council shall issue an emergency temporary license to practice marriage and family therapy, professional counseling, psychology, or social work if:**
 - (1) the Governor declares a disaster under §418.014 and issues a proclamation in accordance with Government Code §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;**
 - (2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and**
 - (3) the applicant meets the requirements set forth herein below.**
- (b) An emergency temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.**
- (c) An emergency temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy, professional counseling, psychology, or social work within the disaster area designated by the governor.**
- (d) To be eligible for an emergency temporary license, an applicant must:**
 - (1) submit an application in the form prescribed by the Council; and**
 - (2) submit written verification that the applicant is actively licensed, certified, or registered to practice, marriage and family therapy, professional counseling, psychology, or social work in another jurisdiction and that the licensure, certification, or registration is in good standing.**
- (e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on the out-of-state license, certification, or registration.**
- (f) An emergency temporary license may be renewed in thirty (30) day increments if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board-approved form on or before the license expiration date.**

- (g) An individual practicing under an emergency temporary license must:
 - (1) display a copy of the emergency temporary license in a conspicuous location when delivering services, or provide written notification of the license number and instructions on how to verify the status of a license when initiating services with a patient or client;
 - (2) provide notification to the public and the patient or client regarding how a complaint may be filed with the Council; and
 - (3) comply with all other applicable Council rules.
- (h) There is no fee associated with the application, issuance, or renewal of an emergency temporary license.



**Adopted Rules (Renewals) for
Texas Behavioral Health Executive Council**

Table of Contents

SUBCHAPTER A – GENERAL PROVISIONS 1

883.1. Renewal of a License. 1

883.2. Initial License Renewal Dates..... 2

883.3. Nonrenewal for Failure to Pay Child Support..... 3

SUBCHAPTER B – RENEWAL PROVISIONS FOR MILITARY PERSONNEL..... 4

883.10. Renewal Terms for Military Personnel on Active Duty..... 4

CHAPTER 883. RENEWALS

SUBCHAPTER A. GENERAL PROVISIONS

22 TAC §§883.1-883.3

The Texas Behavioral Health Executive Council adopts new §§883.1-883.3, relating to general provisions for the renewal of a license. The new sections are adopted without changes to the proposed text as published in the April 24, 2020 issues of the *Texas Register* (45 TexReg 2665) and will not be republished.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Section 507.255 of the Tex. Occ. Code authorizes the Executive Council to renew licenses issued by the Executive Council, which must also include the name of the applicable board, and these new rules implement this statutory duty. Generally, these new rules establish the requirements for the biennial renewal of a license, and this biennial renewal period will be based upon the last day of the license holder's birth month.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

A commenter believes rule §883.2 should be amended so it does not conflict with the renewal dates listed in the rules for all license types.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The rules the commenter is concerned will conflict with rule §883.2 are currently working through the rule amendment process so that in the future a conflict regarding a licensee's renewal date will not exist in the rules. For this reason the agency declines to make the requested changes, and hereby adopts the rule with no changes.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

Lastly, the Executive Council adopts these new rules under the authority of §507.255 of the Tex. Occ. Code which authorizes the Executive Council to issue license renewals upon meeting certain criteria.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER A – GENERAL PROVISIONS

883.1. Renewal of a License.

- (a) All licenses subject to the jurisdiction of the Council are renewable on a biennial basis and must be renewed online.
- (b) Renewals are due on the last day of the license holder's birth month, but may be completed up to 60 days in advance.
- (c) Licensees must pay all applicable renewal and late fees, indicate compliance with any continuing education requirements, and comply with any other requests for information or requirements contained within the online renewal system as a prerequisite for renewal of a license.
- (d) In addition to the requirements of subsection (c) of this section, licensees must also show compliance with each of the following as a condition of renewal:
 - (1) provide or update the standardized set of information about their training and practices required by §105.003 of the Health and Safety Code; and
 - (2) affirm or demonstrate successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code.
- (e) Licensed psychologists must update their online profile information when renewing their license.
- (f) A license may not be renewed until a licensee has complied with the requirements of this rule.
- (g) A licensee who falsely reports compliance with continuing education requirements on his or her renewal form or who practices with a license renewed under false pretenses will be subject to disciplinary action.
- (h) Licensees will be sent notification of their approaching renewal date at least 30 days before their renewal date. This notification will be sent to the licensee's main address via first class mail. Responsibility for renewing a license rests exclusively with the licensee, and the failure of the licensee to receive the reminder notification from the Council shall not operate to excuse a licensee's failure to timely renew a license or any unlawful practice with a subsequent delinquent license.

883.2. Initial License Renewal Dates.

- (a) The license expiration date for a license issued by this agency is the last day of the licensee's birth month.
- (b) The initial renewal date for a license issued or reinstated by this agency shall be set as follows:
 - (1) A license issued or reinstated within 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of two years from the date of issuance or reinstatement.
 - (2) A license issued or reinstated more than 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of one year from the date of issuance or reinstatement.
- (c) Following the initial renewal dates set forth in subsection (b) of this section, a license shall become subject to the standard renewal schedule and requirements.
- (d) Notwithstanding subsection (b) of this section, for individuals with more than one license from a member board, the initial renewal date for a newly issued or reinstated license shall coincide with the individual's existing license renewal date.

883.3. Nonrenewal for Failure to Pay Child Support.

- (a) The Council shall, in accordance with §232.0135 of the Family Code, refuse to renew a license if the Council receives notice from a child support agency that the licensee has failed to pay child support under a support order for six months or more and the child support agency requests the Council to deny the renewal of an existing license.
- (b) Following receipt of notice from a child support agency, the Council may not renew a license until the child support agency has notified the Council that the licensee has met one or more of the requirements set out in §232.0135(b) of the Family Code.
- (c) The Council may charge the licensee a fee equal to the renewal fee for a denial under this rule.

CHAPTER 883. RENEWALS

SUBCHAPTER B. RENEWAL PROVISIONS FOR MILITARY PERSONNEL

22 TAC §§883.10

The Texas Behavioral Health Executive Council adopts new §883.10, relating to renewal terms for military personnel on active duty. The new section is adopted without changes to the proposed text as published in the April 24, 2020 issues of the *Texas Register* (45 TexReg 2667) and will not be republished.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Section 507.255 of the Tex. Occ. Code authorizes the Executive Council to renew licenses issued by the Executive Council, which must also include the name of the applicable board; and §55.002 of the Tex. Occ. Code requires state licensing agencies to adopt a rules regarding licensing renewal exemptions for individuals serving as military service members. This new rule implements the statutory duty.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The new rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this new rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts this new rule under the authority of §507.255 of the Tex. Occ. Code which requires the Executive Council to issue license renewals upon meeting certain criteria.

Lastly, the Executive Council adopts this new rule pursuant to the authority found in §55.002 of the Tex. Occ. Code which requires state licensing agencies to adopt a rules regarding licensing renewal exemptions for individuals serving as military service members.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

SUBCHAPTER B – RENEWAL PROVISIONS FOR MILITARY PERSONNEL

883.10. Renewal Terms for Military Personnel on Active Duty.

- (a) Licensees serving on active duty, as defined by §55.001 of the Occupations Code, may request a waiver from the continuing education requirements and renewal fees associated with the renewal of their license. Licensees who submit a written request to the Council prior to their renewal date each renewal period, and provide the Council with official verification of active duty status during their renewal period, will be granted a waiver from the continuing education requirements and renewal fees associated with the renewal of their license for that renewal period.
- (b) Licensees with an expired or delinquent license may request their license be reinstated or returned to active status if they would have been eligible for a waiver under subsection (a) of this section prior to their license expiring or becoming delinquent. Licensees seeking relief under this subsection must do so within two years of their license becoming delinquent.



**Adopted Rules (Complaints and
Enforcement) for
Texas Behavioral Health Executive Council**

**Changes Recommended by OOG, Budget
and Policy Division (Bold)**

Table of Contents

Subchapter A – Filing a Complaint.....	2
884.1. Timeliness of Complaints.....	2
884.2. Standardized Complaint Form.	3
884.3. Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations.....	4
884.5. Complaints Alleging Violation of Court Orders or Education Law.....	6
884.6. Protections Based On Affiliation with Religious Organizations.....	7
Subchapter B – Investigation and Disposition of Complaints	8
884.10. Investigation of Complaints.	8
884.11. Informal Conferences.....	10
884.12. Complaint Disposition.	12
Subchapter C – Disciplinary Guidelines and Schedule of Sanctions.....	14
884.20. Disciplinary Guidelines and General Schedule of Sanctions.	14
884.21. Assessment of Sanction.....	18
Subchapter D – Duties and Responsibilities	19
884.30. Cooperation with Council Investigations.	19
884.31. Notice to the Public of Complaint Process.....	20
884.32. Reportable Legal Action and Discipline.	21
Subchapter E – License Suspension.....	23
884.40. Temporary Suspension of a License.	23
884.41. Suspension of License for Failure to Pay Child Support.	26
Subchapter F – Special Provisions for Persons Licensed to Practice Psychology	27
884.50. Competency Evaluations under Chapter 501 of the Occupations Code.....	27
884.51. Remedial Plans under Chapter 501 of the Occupations Code.....	29
Subchapter G - Compliance	30
884.55. Monitoring Compliance with Disciplinary Orders.....	30
Subchapter H – Contested Cases.....	31
884.60. Witness Fees.....	31
884.61. Contested Case Hearing Costs.	32
884.62. Final Decision and Order.	33
884.63. Motion for Rehearing.	34
884.65. Corrected Final Decision and Order.....	35

CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER A. FILING A COMPLAINT

22 TAC §§884.1-884.6

The Texas Behavioral Health Executive Council adopts new §§884.1-884.6, relating to filing a complaint. Except for §884.2, the new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2668) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §884.2 is being changed and adopted as republished below.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 2001.004 of the Tex. Gov't Code requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. These new rules are the general framework regarding the Executive Council's procedures for filing a complaint.

List of interested groups or associations against the rule.

The Coalition for Family Court Reform

Summary of comments against the rule.

A commenter requested rule §884.1 be amended so there would be no time limit for complaints alleging sexual misconduct, the commenter wanted to allow child victims as much time as possible to file a complaint. The commenter acknowledges that this would exceed record retention requirements but felt other records or testimony could be used in an investigation of such a complaint.

Commenters requested changes or the deletion of rule §884.3 in its entirety. Some commenters believe the process and requirements outlined in the rule for filing a complaint against a forensic

examiner is overly burdensome to complainants and will not help protect to public against bad actors and misconduct. Some commenters believe the intent of the rule is so staff may dismiss complaints without investigating them. Some ask that the rule allow for the filing of a complaint while a family law case is still pending before a court and that there be no requirement for a complainant to provide or include any documentation regarding their complaint. Another commenter was concerned that allowing attorneys to provide opinion letter in support of a complaint will unnecessarily involve attorneys in the complaint process allowing them to opine on how a licensee did or did not follow the Texas Family Code as it relates to testing, which the commenter asserts an attorney has no such expertise to do. The commenter is afraid that attorneys will try to use the complaint process as a litigation tactic in family law cases. Another commenter wants the rule to include language that allows a complainant to file a copy of a court order making a finding that a child custody evaluator's report is defective, deficient, or in violation of a legal standard.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

While the Council is sympathetic to the commenter's concern in rule §884.1 regarding the investigation of sexual abuse allegations perpetrated against children, as a matter of fairness the Council believes that some time limitation must be imposed upon complaints against licensees. In order for licensees to be able to appropriately and fully respond to a complaint a licensee will almost always provide a copy of the records maintained by the licensee pertaining to the alleged victim, which is typically a patient file. Logically, it only makes sense to tie the requirement in this rule to the records retention requirements for each licensee. Additionally, if a criminal statute of limitation has not expired, the alleged victim may file a criminal complaint and if the licensee is convicted of a criminal offense it will most likely also result in a disciplinary action against that individual's license.

Regarding the comments pertaining to §884.3, this agency is charged with the task of fairly regulating its licensees - so that the public is protected and that licensees are fairly investigated and prosecuted. The Council believes this rule will maintain this balance. The purpose behind the rule is to streamline the complaint intake process, the documents or information needed to initiate the complaint are items that will be necessary in virtually every court ordered forensic evaluation. Agency staff currently reviews complaints when they are initially filed for legal sufficiency, such as to determine if the allegation on their face state a violation of the law. The basic documentation and information required by this rule are used to make this determination. If a complaint fails to state a violation of law the complaint will be dismissed and the complainant will be notified why the agency could not investigate the complaint. Agency staff will often contact a complainant for more information or documentation regarding an alleged violation of law that staff is unable to determine if a violation of law has occurred. What this rule does is put complainants on notice of what staff will need to process and start investigations such complaints. Currently attorneys are not prohibited from filing complaints and opinion letters, the rule uses an attorney opinion letter as one example of possible documentation that may aid in the processing of a complaint and this agency does not have statutory authority to prohibit attorneys from filing complaints or letters for or against a complaint. The rule is intended to curtail the use of this agency's complaint process as a litigation tactic by requiring a judgment, final order, or dismissal be entered and provided with the complaint prior to the agency processing the complaint. The rule, as currently drafted, allows a complainant may file a copy of a court order finding a defect in a report or ordering a licensee to correct a defect in a report.

For these reasons the agency declines to make the requested changes, and hereby adopts the rules with no changes.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code

which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts these new rules pursuant to the authority found in §507.204 of the Tex. Occ. Code which requires the Executive Council to adopt rules concerning the investigation of a complaint filed with the Executive Council.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Subchapter A – Filing a Complaint

884.1. Timeliness of Complaints.

- (a) A complaint not involving sexual misconduct will be considered timely if brought within five years of the date of the termination of professional services.
- (b) A complaint alleging sexual misconduct will be considered timely if brought within seven years after the date of termination of services or within five years of the patient, client or recipient of services reaching the age of majority, whichever is greater.
- (c) A complaint arising out of a matter required to be reported to the Council pursuant to rule §884.32 of this chapter, will be considered timely if brought within five years of the date the matter is reported to the Council. Limitations shall not begin to run for any such complaint until the matter is reported in accordance with Council rules.

- 884.2. Standardized Complaint Form. All complaints must be submitted on the Council-approved complaint form. The complaint form shall ~~can~~ be obtained free of charge from the Council's website or by requesting a copy from the Council.

884.3. Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations.

- (a) A person who seeks to file a complaint alleging a statutory or rule violation arising out of or related to a court ordered evaluation (e.g. child custody evaluation, adoption evaluation, competency or insanity evaluation, psychological evaluation) must, in addition to submitting a Council-approved complaint form, comply with the requirements of this rule when filing a complaint. This rule does not apply to evaluations conducted in administrative proceedings before a state or federal agency.
- (b) A complaint subject to this rule may not be filed prior to entry of judgment or final order by the trial court, or alternatively, prior to dismissal of the case. A complaint received by the Council prior to these specified events will be dismissed by staff as premature. A complaint dismissed as premature may be resubmitted as a new complaint upon the occurrence of one of these events.
- (c) A complaint subject to this rule will be considered timely filed if brought within the time period specified by the general rule governing timeliness of complaints or within one year of the relevant event specified in subsection (b) of this section, whichever is greater.
- (d) A complaint subject to this rule must include the following documentation or information:
 - (1) A copy of the court order appointing the licensee to conduct the evaluation, or alternatively, a transcript or excerpt therefrom or written statement from an attorney-of-record in the case reflecting the licensee's appointment;
 - (2) A copy of the licensee's expert report, or a statement that no such report was produced or provided;
 - (3) A copy of any judgment, final order, or dismissal entered by the trial court; and
 - (4) A copy of any documents provided by the licensee describing the costs of services, the nature of the services provided, as well as any limitations associated with those services, or a statement that no such documents were provided.
- (e) A complaint that does not substantially comply with subsection (d) shall be dismissed by agency staff. A complaint may be held open for no more than 30 days following notice to the complainant regarding any such deficiency, after which, agency staff shall dismiss the complaint if the deficiency is not cured.

- (f) A complaint subject to this rule shall be dismissed unless the complainant can show:
- (1) The licensee was disqualified or struck as an expert witness by the trial court;
 - (2) The licensee's opinion or inferences (i.e. testimony or report) complained of were ruled inadmissible by the trial court;
 - (3) A curriculum vitae and written report by an expert that provides a fair summary of the expert's opinions regarding the applicable law governing the licensee's expert opinion or report (i.e. standard of care) and the manner in which the licensee failed to meet the requirements of the applicable law. The report must come from an expert qualified to render an expert opinion under Texas law on the relevant subject;
 - (4) A letter from an attorney licensed to practice law in Texas setting forth the applicable law governing the licensee's expert opinion or report and reflecting an opinion as to the manner in which the licensee failed to meet the requirements of the applicable law; or
 - (5) The agency would be likely to prevail at a hearing before SOAH based upon the information provided.

884.5. Complaints Alleging Violation of Court Orders or Education Law.

- (a) A person who seeks to file a complaint alleging a violation of a court order in connection with the delivery of services by a licensee must, in addition to submitting a Council-approved complaint form, submit a certified copy of the court order violated and a certified copy of the judgment, order, or minutes of the court reflecting a finding of violation by the licensee. A complaint subject to this rule not in strict compliance with this requirement will be dismissed by agency staff.
- (b) Complaints Involving Standard of Care Issues in Schools:
 - (1) An individual wishing to file a complaint against a licensee for any matter relating to the identification, evaluation, or educational placement of or the provision of a free appropriate public education to a student, must first exhaust all administrative remedies available to that individual under 19 TAC §89.1150 of the Commissioner's Rules Concerning Special Education Services, Texas Education Agency. An individual that has gone through a due process hearing with the Texas Education Agency will be considered to have exhausted all administrative remedies.
 - (2) For purposes of this rule, limitations shall not begin to run until all of the administrative remedies referenced in paragraph (1) of this subsection have been exhausted.
 - (3) Notwithstanding paragraph (1) of this subsection, an individual employed or contracted by the same public or private school as the licensee may file a complaint covered by paragraph (1) of this subsection regardless of whether any administrative remedies available under state or federal education law are utilized by the parent or legal guardian of a student. A complaint brought under this provision shall be subject to the rule of limitations.
 - (4) This rule shall not operate to preclude any individual from filing a complaint against a licensee for any matter other than those described in paragraph (1) of this subsection, nor shall it operate to limit the Council's ability to bring a complaint for any matter within the agency's jurisdiction.

- 884.6. **Protections Based On Affiliation with Religious Organizations.** In accordance with Chapter 2400 of the Government Code, the Council and member boards may not initiate or take disciplinary action, including eligibility proceedings, against applicants or licensees based wholly or partly on the person's membership in, affiliation with, or contribution, donation, or other support provided to a religious organization.

CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER B. INVESTIGATION AND DISPOSITION OF COMPLAINTS

22 TAC §§884.10-884.12

The Texas Behavioral Health Executive Council adopts new §§884.10-884.12, relating to investigation and disposition of complaints. Except for §§884.10 and 884.12, the new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2670) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §§884.10 and 884.12 are being changed and adopted as republished below.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 2001.004 of the Tex. Gov't Code requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. These new rules are the general framework regarding the Executive Council's procedures for investigating and potentially resolving a complaint.

List of interested groups or associations against the rule.

The Bluebonnet Counseling Association of the Texas
The Texas Counseling Association
The Texas Psychological Association
The Texas Association of Marriage and Family Therapists
The National Association of Social Workers - Texas Chapter
The Texas Society for Clinical Social Work

Summary of comments against the rule.

Commenters requested changes to rule §884.12(c). In general commenters requested the rule be changed from allowing members boards to provide input and assistance in enforcement matters and

proceedings to requiring it. Some commenters believed §507.306 of the Tex. Occ. Code requires this change.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The comments all focus on subsection (c) of rule §884.12 but failed to read this subsection in conjunction with the entire rule. Subsection (a) of the rule states, in part: "each member board shall be responsible for reviewing complaints involving the standard of care, ethical guidelines, or scope of practice following a contested case before SOAH and making a recommendation to the Council regarding the final disposition." Then in subsection (c) the Council is allowed to solicit input and request assistance from a member board before entering the final order. Changing subsection (c) to a mandatory requirement, as opposed to permissive one, will only make subsection (c) redundant to the requirements of subsection (a). Therefore rule §884.12 complies with §507.306 of the Tex. Occ. Code; and for these reasons the agency declines to make the requested changes, and hereby adopts the rule with no changes.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts these new rules pursuant to the authority found in §507.204 of the Tex. Occ. Code which requires

the Executive Council to adopt rules concerning the investigation of a complaint filed with the Executive Council.

The Executive Council adopts these new rules pursuant to the authority found in §§507.305 and 507.306 of the Tex. Occ. Code which requires the Executive Council to adopt rules concerning informal proceedings to resolve a complaint and assistance in disciplinary proceedings.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Subchapter B – Investigation and Disposition of Complaints

884.10. Investigation of Complaints.

- (a) The following priority rating system shall serve to distinguish between categories of complaints. The priority rating system is as follows:
 - (1) cases involving a probability of imminent physical harm to the public **or a member of the public**;
 - (2) cases involving sexual misconduct;
 - (3) cases involving applicants for licensure; and
 - (4) cases involving all other violations of state or federal law.
- (b) The Enforcement Division shall investigate all complaints in a timely manner. A schedule shall be established for conducting each phase of a complaint that is under the control of the Council not later than the 30th day after the date the complaint is received. The schedule shall be kept in the information file of the complaint, and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file, and all parties to the complaint must be notified in writing not later than the seventh day after the date the change is made.
- (c) The Council may accept, but is not obligated to investigate, a complaint that lacks sufficient information to identify the source or the name of the person who filed the complaint.
- (d) A complainant may explain the allegations made in the complaint by attaching or including with the complaint any evidence the complainant believes is relevant to a determination of the allegations, including written statements or communications, medical or mental health records, recordings, photographs, or other documentary evidence.
- (e) A review will be conducted upon receipt of a complaint to determine if the Council has jurisdiction over the complaint, and if so, whether the complaint states an allegation which, if true, would constitute a violation of the Council's rules or other law within the jurisdiction of the Council.
- (f) Complaints that do not state a violation of a law within the jurisdiction of the Council shall be dismissed. If the complaint alleges a violation of a law within the jurisdiction of another agency, the complaint will be referred to that agency as required or allowed by law.

- (g) Complaints that state a violation of a law within the jurisdiction of the Council shall be investigated by an investigator assigned by the Enforcement Division.
- (h) Licensees will receive written notice of any alleged complaint(s), including specific information regarding any violation(s) encountered. Notice to a licensee is effective and service is complete when sent by registered or certified mail to the licensee's address of record at the time of the mailing.
- (i) Following completion of the investigation, an investigation report shall be drafted. This report shall include a recommendation as to whether the investigation has produced sufficient evidence to establish probable cause that a violation has occurred.
- (j) The Enforcement Division Manager (or the manager's designee) and legal counsel shall review the investigation report to determine if there is probable cause that a violation occurred.
- (k) A complaint for which the staff determines probable cause exists shall be referred for an informal conference by agency staff or a member board's Disciplinary Review Panel. Agency staff shall send the respondent notice of the date and time of the informal conference.
- (l) A complaint for which staff or a Disciplinary Review Panel determines that probable cause does not exist shall be referred for dismissal.
- (m) The services of a private investigator shall be retained only in the event that staff investigator positions are vacant or inadequate to provide essential investigative services. The services of a private investigative agency shall be obtained in accordance with the state's procurement procedures.
- (n) If a complainant or respondent are represented by an attorney, any notice or service required by law shall be made upon the attorney at the attorney's last known address.

884.11. Informal Conferences.

- (a) The purpose of an informal conference shall be to provide the complainant with an opportunity to be heard, the respondent with an opportunity to show compliance with the law, and for the agency staff or Disciplinary Review Panel to make a recommendation regarding the informal disposition of the complaint. An informal disposition may be made of any complaint by stipulation, conditional letter of agreement, agreed or consent order, or dismissal.
- (b) Agency staff may conduct an informal conference if counsel for the agency reasonably believes that expert testimony is not required to prove a violation of a standard of care or the scope of practice for the profession. Agency staff shall exercise reasonable control over the mode and order of the appearance by the parties, the presentation of witnesses and evidence, and the overall order and decorum during the proceedings. Complainants and respondents will be provided an opportunity to be heard by staff, at a time separate and apart from the other.
- (c) A Disciplinary Review Panel shall consist of not more than three board members selected by the member board. The panel shall confer with each other and select a chair for the informal conference. The panel chair shall exercise reasonable control over the mode and order of the appearance by the parties, the presentation of witnesses and evidence, and the overall order and decorum during the proceedings. Complainants and respondents will be provided an opportunity to be heard by the panel, at a time separate and apart from the other.
- (d) Complainants and respondents may appear with legal counsel at informal conferences and shall be provided with an opportunity to present witnesses and any evidence they believe is relevant to a determination of the allegations, including written statements or communications, medical or mental health records, recordings, photographs, or other documentary evidence.
- (e) Complainants and respondents are encouraged to attend informal conferences, but attendance is voluntary.
 - (1) Failure by a respondent to attend an informal conference does not constitute professional misconduct or failure to cooperate with a Council investigation, but a respondent is not entitled to a new or additional informal conference if agency staff or the panel makes a disciplinary recommendation regarding the licensee in absentia.
 - (2) Failure by a complainant to attend an informal conference may result in a recommendation for dismissal of the complaint.

- (f) A complaint which is not dismissed or resolved by agreement following an informal conference, shall be filed as a contested case with the State Office of Administrative Hearings.
- (g) An attorney for the agency must be present at all informal conferences.
- (h) Informal conferences are not open meetings subject to Chapter 551 of the Government Code and no formal record of the proceedings shall be made or maintained.
- (i) The Council finds and declares that informal conferences are part of the confidential complaint and investigation process, and as such, the Disciplinary Review Panel and agency staff shall take any and all steps necessary to ensure the confidentiality of informal conferences in accordance with §507.205 of the Occupations Code.

884.12. Complaint Disposition.

- (a) The Council must approve and enter all final orders following a contested case before SOAH or where no agreement exists between the agency and the respondent regarding the disposition of a contested enforcement related matter. However, each member board shall be responsible for reviewing complaints involving the standard of care, ethical guidelines, or scope of practice following a contested case before SOAH and making a recommendation to the Council regarding the final disposition. A recommendation from a member board must include any recommended modifications to the findings of fact and conclusions of law in the PFD, as well as the recommended sanction. A proposed final order reflecting a member board's recommendations shall satisfy the requirements of this rule.
- (b) The Council shall review recommendations from member boards for anti-competitive impacts, administrative consistency, and good governance concerns. The Council may not substitute its judgment in contested enforcement matters for that of a member board where, in the Council's ~~its sole~~ determination, none of the aforementioned concerns are present.
- (c) The Council may solicit input from and request the assistance of a member board when considering a contested enforcement matter if there are concerns about the standard of care or ethical practice shown by a licensee. The Council may specify the format of the input and assistance requested to satisfy the requirements of this rule.
- (d) Each member board is authorized to dismiss complaints and approve and enter agreed final orders and informal dispositions; Council ratification is not required. The Executive Director shall report the number of dismissals and agreed orders entered under this rule at Council meetings.
- (e) Disposition by the Executive Director.
 - (1) The Executive Director is authorized to:
 - (A) dismiss a complaint if the investigator and legal counsel agree that a violation did not occur or that the agency lacks jurisdiction over the complaint;
 - (B) dismiss a complaint recommended for dismissal by a Disciplinary Review Panel;
 - (C) dismiss a complaint following a contested case hearing before SOAH where the ALJ finds no violation of the law has occurred;

- (D) accept the voluntary resignation of a license;
 - (E) offer, approve, and enter agreed orders if the disciplinary sanction imposed complies with the disciplinary guidelines and relevant schedule of sanctions; and
 - (F) enter an order suspending a license upon receipt of an order suspending a license issued under Chapter 232 of the Family Code. Council ratification is not required.
- (2) The Executive Director shall report the number of agreed orders, dismissals, resignations, and suspensions ordered, along with a brief summary of the basis for each, to the Council and relevant member board at the next regular meeting.
- (3) The Executive Director must, when offering an agreed order or resignation order prior to an informal conference, advise the respondent of the right to an informal conference and that the matter will be set for an informal conference if requested or if an informal disposition cannot be agreed upon.
- (f) Any person who files a complaint will be notified of the disposition of the complaint. A person who filed a complaint that is dismissed will be notified of the dismissal by letter and the letter will reflect the legal basis or reason for the dismissal. A person who filed a complaint resulting in disciplinary action will be sent a copy of the Council's final order.

CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER C. DISCIPLINARY GUIDELINES AND SCHEDULE OF SANCTIONS

22 TAC §§884.20-884.21

The Texas Behavioral Health Executive Council adopts new §§884.20-884.21, relating to disciplinary guidelines and schedule of sanctions. The new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2673) and will not be republished.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 2001.004 of the Tex. Gov't Code requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. These new rules are the general framework regarding the Executive Council's procedures for imposing sanctions.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts these new rules pursuant to the authority found in §507.204 of the Tex. Occ. Code which requires the Executive Council to adopt rules concerning the investigation of a complaint filed with the Executive Council.

The Executive Council adopts these new rules pursuant to the authority found in §507.304 of the Tex. Occ. Code which requires the Executive Council to adopt rules concerning a schedule of sanctions.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Subchapter C – Disciplinary Guidelines and Schedule of Sanctions

884.20. Disciplinary Guidelines and General Schedule of Sanctions.

- (a) **Purpose.** These disciplinary sanction guidelines are designed to provide guidance in assessing sanctions for violations of the Occupations Code, Chapter 507, and the Council's rules. The purpose of disciplinary sanctions is to protect the public, deter future violations, offer opportunities for rehabilitation if appropriate, punish violators, and deter others from violations. These guidelines are intended to promote consistent sanctions for similar violations, facilitate timely resolution of cases, and encourage settlements.
 - (1) **Single Violation.** The standard disciplinary sanctions outlined in the applicable schedule of sanctions shall apply to cases involving a single violation, and in which there are no aggravating or mitigating factors.
 - (2) **Multiple Violations.** The Council may impose more severe or restrictive sanctions for multiple violations.
 - (3) **Aggravating and Mitigating Factors.** The Council may impose more or less severe or restrictive sanctions, based on any aggravating and/or mitigating factors that are found to apply in a particular case.
 - (4) **The standard and minimum disciplinary sanctions outlined below are applicable to persons who are being sanctioned for the first time. The Council may consider more severe or restrictive sanctions if the persons have had sanctioned assessed against them previously.**
 - (5) **The maximum disciplinary sanction in all cases is revocation of the license, which may be accompanied by an administrative penalty of up to \$5,000 per violation. In accordance with §507.352 of the Occupations Code, each day the violation continues or occurs is a separate violation.**
 - (6) **Each violation constitutes a separate offense, even if arising out of a single act.**
 - (7) **Failure to list a specific violation or Council rule in this rule does not prevent the Council from taking disciplinary action for such a violation.**

- (8) If a sanction for a violation of state or federal law is not listed in this rule, or specifically stated elsewhere, the sanction shall be a reprimand and administrative penalty.
 - (9) Notwithstanding paragraph (8) of this subsection, the Council will evaluate and determine the appropriate sanction for a licensee with a qualifying criminal conviction in accordance with §53.021 of the Occupations Code.
 - (10) The Council may combine an administrative penalty with another standard disciplinary sanction to protect the public or deter future violations.
- (b) **Standard Disciplinary Sanctions.** The Council may impose the following disciplinary sanctions which are listed in descending order of severity:
- (1) Revocation;
 - (2) Suspension for a definite period of time;
 - (3) Suspension plus probation of any or all of the suspension period;
 - (4) Probation of the license for a definite period of time;
 - (5) Reprimand; and
 - (6) Administrative penalty.
- (c) The following standard disciplinary sanctions shall apply to violations of:

Figure: 22 TAC §884.20

- (d) **Additional Conditions.** The Council may impose additional conditions or restrictions upon a license deemed necessary to facilitate the rehabilitation and education of the licensee and to protect the public, including but not limited to:
- (1) Consultation with the licensee on matters of ethics rules, laws and standards of practice by a licensed professional approved by the Council;
 - (2) Restrictions on the licensee's ability to provide certain types of services or to provide services to certain classes of patients;

- (3) Restrictions on the licensee's supervision of others in a particular area of practice;
 - (4) Completion of a specified number of continuing education hours on specified topics approved in advance by the Council in addition to any minimum number required of all licensees as a condition of licensure;
 - (5) Taking and passing with the minimum required score of any examination required by the Council of a licensee; and
 - (6) Undergoing a psychological or medical evaluation by a qualified professional approved in advance by the Council and undergoing any treatment recommended pursuant to the evaluation.
- (e) **Aggravating Factors.** Aggravating factors are those which may increase the severity of unprofessional conduct, justifying the imposition of a more severe penalty. Such factors include, but are not limited to the following:
- (1) Physical or emotional harm and the type and severity thereof;
 - (2) Economic harm to any individual or entity and the severity thereof;
 - (3) Increased potential for harm to the public;
 - (4) Attempted concealment of misconduct;
 - (5) Premeditated conduct;
 - (6) Intentional misconduct;
 - (7) Prior written warnings or written admonishments from any supervisor or governmental agency or official regarding statutes or regulations pertaining to the licensee's practice;
 - (8) Prior misconduct of a similar or related nature;
 - (9) Disciplinary history;
 - (10) Likelihood of future misconduct of a similar nature;
 - (11) Violation of a Council order;
 - (12) Failure to implement remedial measures to correct or alleviate harm arising from the misconduct;

- (13) Lack of rehabilitative effort or potential; and
- (14) Improper or inappropriate motive.
- (f) Mitigating Factors. Mitigating factors are those which may reduce the severity of unprofessional conduct. Such factors include, but are not limited to the following:
 - (1) Acceptance of responsibility;
 - (2) Self-reporting of unprofessional conduct;
 - (3) Implementation of remedial measures to correct or mitigate harm arising from the unprofessional conduct;
 - (4) Good-faith motive;
 - (5) Rehabilitative efforts or potential; and
 - (6) Prior community service.

Figure: 22 TAC §884.20

<u>Council Rule or Violation</u>	<u>Revocation</u>	<u>Suspension</u>	<u>Probated Suspension</u>	<u>Reprimand</u>	<u>Administrative Penalty</u>
§882.30 Display of License					X
§882.31 Advertising Restrictions				X	
§882.32 Duty to Update Name and Address					X
§882.33 Disclosure of Proprietary Examination Materials or Information Prohibited		X			
§882.34 Filing of False or Misleading Information with the Council		X			
§884.30 Cooperation with Council Investigations		X			
§884.31 Notice to the Public of Complaint Process					X
§884.32 Reportable Legal Action and Discipline					X

- 884.21. **Assessment of Sanction.** The Council, subject to §507.306 of the Occupations Code, has the exclusive authority to assess sanctions against licensees who are found to have violated a law within its jurisdiction. While the Council will consider an ALJ's recommendations as to the sanctions to be imposed, it is not bound by such recommendations. The appropriate sanction is not a proper finding of fact or conclusion of law, and the determination of the appropriate sanction is reserved to the Council based upon the relevant schedule of sanctions and record in a contested case.

CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER D. DUTIES AND RESPONSIBILITIES

22 TAC §§884.30-884.32

The Texas Behavioral Health Executive Council adopts new §§884.30-884.32, relating to duties and responsibilities. Except for §§884.30 and 884.32, the new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2676) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §§884.30 and 884.32 are being changed and adopted as republished below.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 2001.004 of the Tex. Gov't Code requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. These new rules require licensees to provide notice to the public of the complaint process, they require licensees to cooperate with Executive Council investigations, and they require licensees to report legal actions and a discipline.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts these new rules pursuant to the authority found in §507.204 of the Tex. Occ. Code which requires the Executive Council to adopt rules concerning the investigation of a complaint filed with the Executive Council.

The Executive Council adopts these new rules pursuant to the authority found in §507.202 of the Tex. Occ. Code which requires the Executive Council to adopt rules concerning notice to the public of the complaint process.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Subchapter D – Duties and Responsibilities

- 884.30. Cooperation with Council Investigations. Licensees must cooperate with and respond to Council investigations. Failure to cooperate or respond ~~may~~ **shall** serve as grounds for a Council-initiated complaint and disciplinary action.

884.31. Notice to the Public of Complaint Process.

- (a) Licensees shall provide notice to the public (e.g., patients, clients) that complaints can be filed with the Council by any of the following methods:
 - (1) on a registration form, application, written contract for services, or other intake paperwork required by licensees prior to delivering services;
 - (2) on a sign prominently displayed in the licensee's place of business or location where services are delivered. The sign must be printed on paper of no less than 8-1/2 inches by 11 inches in size;
 - (3) in a prominent and easily accessible location on the licensee's website; or
 - (4) in a bill for services.
- (b) The notice required by this rule must include the Council's name, mailing address, and telephone number, as well as the following statement:

Figure: 22 TAC §884.31

NOTICE TO CLIENTS

The Texas Behavioral Health Executive Council investigates and prosecutes professional misconduct committed by marriage and family therapists, professional counselors, psychologists, psychological associates, social workers, and licensed specialists in school psychology.

Although not every complaint against or dispute with a licensee involves professional misconduct, the Executive Council will provide you with information about how to file a complaint.

Please call 1-800-821-3205 for more information.

884.32. Reportable Legal Action and Discipline.

(a) Licensees are required to report legal actions as follows:

- (1) Any conviction, sentence, dispositive agreement, or order placing the licensee on community supervision or pretrial diversion, must be reported in writing to the Council within thirty days of the underlying event. A report must include the case number, court, and county where the matter is filed, together with a description of the matter being reported. A licensee shall provide copies of court documents upon request from agency staff.
- (2) Any lawsuit brought by or against a licensee concerning or related to the delivery of services regulated by this agency or billing practices by the licensee. A report must include a copy of the initial pleading filed by or served upon the licensee, and must be submitted to the Council within thirty days of either filing by or service upon the licensee.
- (3) Any administrative or disciplinary action initiated against a licensee by another health regulatory agency in this state or any other jurisdiction, or any agency or office within the federal government, must be reported to the Council by sending notification of the action within thirty days of the licensee receiving notice of the action. A report must include a copy of any complaint, notice of violation, or other documentation received by the licensee from the initiating entity which describes the factual basis for the action. A licensee must also supplement this report to the Council with a copy of any order, letter, or determination setting forth the final disposition of the matter within thirty days following the final disposition.

(b) A complaint shall be opened if a reported criminal action constitutes grounds for disciplinary action under applicable state or federal law. A complaint may be opened if a reported civil action constitutes grounds for disciplinary action under Council rules.

(c) Reciprocal Discipline:

- (1) A complaint may be opened upon receipt of a report of discipline against a licensee by another health licensing agency in this state or any other jurisdiction.
- (2) The Council may ~~will~~ impose disciplinary action on a licensee according to its own schedule of sanctions for the conduct forming the basis of the other health licensing agency's disciplinary action.

- (3) A voluntary surrender of a license in lieu of disciplinary action or during an investigation by another health licensing agency constitutes disciplinary action under this rule.

CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER E. LICENSE SUSPENSION

22 TAC §§884.40-884.41

The Texas Behavioral Health Executive Council adopts new §§884.40-884.41, relating to license suspension. Except for §884.40, the new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2677) and will not be republished. In response to non-substantive changes being requested by the Office of the Texas Governor, §884.40 is being changed and adopted as republished below.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 2001.004 of the Tex. Gov't Code requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. These new rules pertain to the Executive Council's proceedings to temporarily suspend a license.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts these new rules pursuant to the authority found in §507.204 of the Tex. Occ. Code which requires the Executive Council to adopt rules concerning the investigation of a complaint filed with the Executive Council.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Subchapter E – License Suspension

884.40. Temporary Suspension of a License.

- (a) In accordance with §507.302 of the Occupations Code, a license shall be temporarily suspended when the Council or an executive committee of the Council determines that the continued practice by a licensee (respondent) would constitute a continuing and imminent threat to the public welfare.
- (b) An executive committee of the Council shall convene as follows:
 - (1) For each temporary suspension proceeding, the Council ~~shall~~ **may** appoint a three-member executive committee, called a "suspension panel," to consider the information and evidence presented by agency staff. The suspension panel must have at least one member from the same profession as the respondent and a majority of members from the respondent's member board. The suspension panel shall confer with each other and name a chair of the suspension panel.
 - (2) In the event of the recusal of a suspension panel member or the inability of a suspension panel member to attend a temporary suspension proceeding, the presiding officer for the Council may appoint an alternate council member to serve on the suspension panel.
 - (3) The suspension panel may convene in-person or via telephone, video conference, or other electronic means.
- (c) Temporary Suspension Hearing. The meeting at which the suspension panel considers a temporary suspension is a temporary suspension hearing. At the temporary suspension hearing, agency staff shall present evidence and information to the suspension panel that the continued practice by a person licensed by the Council would constitute a continuing and imminent threat to the public welfare. Notice of the temporary suspension hearing shall be sent to the respondent no less than 10 days before the hearing by personal service or by registered or certified mail.
- (d) Order of Temporary Suspension. If a majority of the suspension panel votes to temporarily suspend a license, the suspension shall have immediate effect, and the chair of the suspension panel will sign an Order of Temporary Suspension. The Order of Temporary Suspension shall include a factual and legal basis establishing imminent peril to the public health, safety, or welfare, as required by §2001.054(c-1) of the Government Code. The Order shall be sent to the respondent by first-class mail or email.

Government Code. The Order shall be sent to the respondent by first-class mail or email.

- (e) **Temporary Suspension Without Notice.** In accordance with §507.302(b) of the Occupations Code, a license may be suspended without notice to the respondent if at the time of the suspension, agency staff request a hearing before SOAH to be held as soon as practicable but no later than 14 days after the date of the temporary suspension. The hearing is referred to as the "probable cause hearing."
- (f) **Notice, Continuance, and Waiver of Probable Cause Hearing.** Agency staff shall serve notice of the probable cause hearing upon the respondent in accordance with SOAH's rules. The respondent may request a continuance or waiver of the probable cause hearing. If the ALJ grants the continuance request or the respondent waives the probable cause hearing, the suspension remains in effect until the suspension is considered by SOAH at the continued probable cause hearing or at the final hearing. If the probable cause hearing is not held within 14 days and the respondent did not request a continuance or waive the probable cause hearing, the suspended license is reinstated.
- (g) **Probable Cause Hearing.** At the probable cause hearing, an ALJ shall determine whether there is probable cause to continue the temporary suspension of the license and issue an order on that determination.
- (h) **Final Hearing.** The State Office of Administrative Hearings shall hold a hearing no later than 61 days from the date of the temporary suspension. At this hearing, agency staff shall present evidence supporting the continued suspension of the license and may present evidence of any additional violations related to the licensee. This hearing is referred to as the "final hearing."
- (i) **Notice and Continuance of Final Hearing.** Agency staff shall send notice of the final hearing in accordance with SOAH's rules. The respondent may request a continuance or waive the final hearing. If a final hearing is not held within 61 days of the date of the temporary suspension and the respondent did not request a continuance or waive the final hearing, the license is reinstated.
- (j) **Proposal for Decision.** Following the final hearing, the ALJ shall issue a PFD on the suspension. The PFD may also address any other additional violations related to the licensee.
- (k) **A temporary suspension takes effect immediately and shall remain in effect until:**

- (1) a final or superseding order of the Council is entered;
- (2) the ALJ issues an order determining that there is no probable cause to continue the temporary suspension of the license; or
- (3) a SOAH hearing is not timely held.

884.41. Suspension of License for Failure to Pay Child Support.

- (a) On receipt of a final court order or order from a Title IV-D agency (e.g. the Texas Attorney General) suspending a license due to failure to pay child support, the Executive Director shall immediately determine if the Council has issued a license to the obligor named on the order, and, if a license has been issued:

 - (1) enter an order of suspension of the license;
 - (2) report the suspension as appropriate; and
 - (3) demand surrender of the suspended license.
- (b) The Council shall implement the terms of an order suspending a license without additional review or hearing. The Council will provide notice of suspension as appropriate to the licensee and others concerned with the license.
- (c) The Council may not modify, remand, reverse, vacate, or stay an order suspending a license issued under Chapter 232 of the Family Code and may not review, vacate, or reconsider the terms of a final order suspending the license.
- (d) A licensee who is the subject of a court order or order from a Title IV-D agency suspending the individual's license is not entitled to a refund for any fee paid to the Council.
- (e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section shall comply with the normal renewal procedures.
- (f) An individual who continues to engage in the practice of marriage and family therapy, professional counseling, psychology, or social work after the implementation of the order suspending the individual's license is liable for the same civil and criminal penalties provided for engaging in the licensed activity without a license or while a license is suspended.
- (g) On receipt of a court order or order from a Title IV-D agency vacating or staying an order suspending a license, the Executive Director shall promptly issue the affected license to the individual if the individual is otherwise qualified for the license.
- (h) The individual must pay a reinstatement fee in an amount equal to the renewal fee for the license prior to issuance of the license.

CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER F. SPECIAL PROVISIONS FOR PERSONS LICENSED TO PRACTICE PSYCHOLOGY

22 TAC §§884.50-884.51

The Texas Behavioral Health Executive Council adopts new §§884.50-884.51, relating to special provisions for persons licensed to practice psychology. The new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2680) and will not be republished.

Reasoned Justification.

The new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 2001.004 of the Tex. Gov't Code requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. These new rules pertain to the Executive Council's proceedings for competency evaluations and remedial plans for persons licensed under Chapter 501 Tex. Occ. Code.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts these new rules pursuant to the authority found in §507.204 of the Tex. Occ. Code which requires the Executive Council to adopt rules concerning the investigation of a complaint filed with the Executive Council.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Subchapter F – Special Provisions for Persons Licensed to Practice Psychology

884.50. Competency Evaluations under Chapter 501 of the Occupations Code.

- (a) In accordance with §501.158 of the Occupations Code, based upon the Council's reasonable belief that an applicant or person licensed under Chapter 501 is not physically or mentally competent to provide psychological services with reasonable skill and safety to patients or has a physical or mental disease or condition that would impair the person's competency to provide psychological services, the Council may request the person submit to:
 - (1) a physical examination by a physician approved by the Council; or
 - (2) a mental examination by a physician or psychologist approved by the Council.
- (b) The Council may carry out its functions under this rule by and through an executive committee of the Council, which may convene as follows:
 - (1) For each competency evaluation proceeding, the Council may appoint a three-member executive committee, called a "competency evaluation panel," to issue requests for physical or mental examinations, conduct show cause hearings, and issue orders determining whether a person's failure to submit to an examination was justified or unjustified. The competency evaluation panel must consist of a majority from TSBEP with at least one member holding the same license as the respondent. The competency evaluation panel shall confer with each other and name a chair for the panel.
 - (2) In the event of the recusal of a competency evaluation panel member or the inability of a panel member to attend a competency evaluation proceeding, the presiding officer for the Council may appoint an alternate council member to serve on the competency evaluation panel.
 - (3) The competency evaluation panel may convene in-person or via telephone, video conference, or other electronic means.
- (c) If the person should refuse, ignore, or fail to comply with the Council's request, the Council shall issue an order requiring the person to show cause for the person's refusal at a hearing on the order scheduled for not later than the thirtieth (30) day after the date the notice is served on the person. Notice shall be provided by either personal service or by

registered mail, return receipt requested. The meeting at which the Council considers a person's failure to comply with an examination request is a "show cause hearing." At the show cause hearing, agency staff may present evidence and information to the Council that demonstrates the reasonable belief that an examination is necessary and may also present evidence of any additional violations related to the person. The person may appear, at the show cause hearing, in person and by counsel and present evidence to justify the person's refusal to submit to examination as well as respond to any additional violations.

- (d) After the show cause hearing, if a majority of the Council votes that the person's failure to comply with the request was unjustified then the Council shall issue an order requiring the person to submit to the examination. If a majority of the Council votes that the person's failure to comply with the request was justified, then the Council shall issue an order withdrawing the request for the examination.
- (e) If the person fails to comply with the order issued after the show cause hearing requiring the person to submit to a physical or mental examination, the Council may take disciplinary action against the person by docketing the matter at SOAH.
- (f) Following a SOAH hearing, the ALJ shall issue a PFD on whether the person's failure to comply with the Council's order and request was justified. The PFD shall also address any other additional violations related to the person.
- (g) The Council shall review the PFD at a regularly scheduled meeting after the PFD is issued and the Council shall issue a final order in the matter.
- (h) An appeal from the Council's order under this section is governed by Chapter 2001 of the Government Code.

884.51. Remedial Plans under Chapter 501 of the Occupations Code.

- (a) In accordance with §501.411 of the Occupations Code, the Council may issue and establish the terms of a non-disciplinary remedial plan to resolve the investigation of a complaint against a person licensed under Chapter 501.**
- (b) A remedial plan may not contain a provision that:**
 - (1) revokes, suspends, limits, or restricts a person's license or other authorization to practice psychology; or**
 - (2) assesses an administrative penalty against a person.**
- (c) A remedial plan may not be imposed to resolve a complaint:**
 - (1) concerning significant patient harm; or**
 - (2) in which the appropriate resolution may involve a restriction or limitation on the manner in which a license holder practices psychology or the suspension or revocation of a license.**
- (d) The Council may not issue a remedial plan to resolve a complaint against a license holder if the license holder has previously entered into a remedial plan with the Council for the resolution of a different complaint.**
- (e) The Council may issue a remedial plan to resolve a complaint against a license holder in which the appropriate resolution involves a reprimand, administrative penalty, or a combination thereof under the appropriate schedule of sanctions.**
- (f) The Council may assess a fee against a license holder participating in a remedial plan in an amount necessary to recover the costs of administering the plan.**
- (g) In accordance with §507.205 of the Occupations Code, a remedial plan is confidential complaint information and not subject to public disclosure.**

CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER G. COMPLIANCE

22 TAC §884.55

The Texas Behavioral Health Executive Council adopts new §884.55, relating to compliance. The new section is adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2682) and will not be republished.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 2001.004 of the Tex. Gov't Code requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. This new rule pertains to the Executive Council's procedures for monitoring and ensuring compliance with Executive Council orders.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The new rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this new rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts this new rule pursuant to the authority found in §507.204 of the Tex. Occ. Code which requires the Executive Council to adopt rules concerning the investigation of a complaint filed with the Executive Council.

The Executive Council adopts this new rule pursuant to the authority found in §507.404 of the Tex. Occ. Code which requires the Executive Council to adopt rules regarding monitoring a license holder's compliance with Executive Council orders.

Lastly, the Executive Council adopts this new rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Subchapter G - Compliance

- 884.55. **Monitoring Compliance with Disciplinary Orders.** Each member board shall coordinate with agency staff and be responsible for monitoring its applicants and licensees who are ordered by the Council to take or undergo certain corrective, preventative, or rehabilitative steps within a disciplinary or eligibility order. The member boards shall ascertain whether its applicants and licensees are performing the required acts within the designated time period, and make appropriate recommendations to the Council for modification of the terms of an order or for further enforcement proceedings based upon noncompliance.

CHAPTER 884. COMPLAINTS AND ENFORCEMENT

SUBCHAPTER H. CONTESTED CASES

22 TAC §§884.60-884.65

The Texas Behavioral Health Executive Council adopts new §§884.60-884.65, relating to contested cases. The new sections are adopted without changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2683) and will not be republished.

Reasoned Justification.

OVERVIEW AND EXPLANATION OF THE PROPOSED RULE. The proposed new rules are needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 2001.004 of the Tex. Gov't Code requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures. These new rules pertain to the Executive Council's procedures for conducting a contested case to resolve a complaint.

List of interested groups or associations against the rule.

None.

Summary of comments against the rule.

None.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

None.

Statutory Authority.

The new rules are adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts these new rules pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts these new rules pursuant to the authority found in §507.204 of the Tex. Occ. Code which requires the Executive Council to adopt rules concerning the investigation of a complaint filed with the Executive Council.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Subchapter H – Contested Cases

884.60. Witness Fees.

- (a) A witness or deponent who is not a party and who is subpoenaed or otherwise compelled to attend a hearing or deposition pursuant to §507.206 of the Occupations Code, in connection with a complaint, shall be entitled to reimbursement of expenses as set forth in §2001.103 of the Government Code.
- (b) The party or agency at whose request a witness appears or the deposition is taken shall be responsible for payment of the expenses required by this rule.

884.61. Contested Case Hearing Costs.

- (a) Costs associated with a contested case hearing before SOAH shall be determined according to the rules in 1 TAC §155.423 unless determined in accordance with subsection (b) of this section.**
- (b) On the written request by a party to a case or on request of the ALJ, a written transcript of all or part of the proceedings shall be prepared. The cost of the transcript is borne by the requesting party. This section does not preclude the parties from agreeing to share the costs associated with the preparation of a transcript. If only the ALJ requests a transcript, costs will be assessed to the respondent(s) or applicant(s), as appropriate.**

884.62. Final Decision and Order.

- (a) A final decision or order following a contested case at SOAH shall be in writing and shall be signed by the presiding officer for the Council.**
- (b) A party who appeals a final agency decision or order must pay all costs for the preparation of the original or a certified copy of the record of the agency proceeding that is required to be transmitted to the reviewing court.**

884.63. Motion for Rehearing.

- (a) A motion for rehearing is a prerequisite to appeal from a Council's final decision or order in a contested case. A motion for rehearing shall be filed and handled in accordance with Government Code, Chapter 2001, Subchapter F.
- (b) The Executive Director is authorized to grant or deny requests to extend the deadline for filing a motion for rehearing in accordance with Government Code, Chapter 2001, Subchapter F.
- (c) In the event of an extension, the motion for rehearing may be overruled by operation of law in accordance with Government Code, Chapter 2001, Subchapter F.

- 884.65. **Corrected Final Decision and Order.** The Executive Director may enter a corrected order to correct a clerical mistake in an order of the Council.



**Adopted Rules (Fees) for
Texas Behavioral Health Executive Council**

Table of Contents

Executive Council Fees1

885.1. **Executive Council Fees.....1**

CHAPTER 885. FEES

22 TAC §885.1

The Texas Behavioral Health Executive Council adopts new §885.1, relating to Fees.

The new section is adopted with changes to the proposed text as published in the April 24, 2020 issue of the *Texas Register* (45 TexReg 2685). In response to changes being proposed in 22 Tex. Admin. Code Ch. 681, where the term Licensed Professional Counselor Intern (LPC-I) is being changed to Licensed Professional Counselor Associate (LPC-A), the Council adopts the corresponding name changes in rule §885.1, as a non-substantive change, which is republished below.

Reasoned Justification.

The new rule is needed to implement Tex. H.B. 1501, 86th Leg., R.S. (2019). This legislation created the Texas Behavioral Health Executive Council and authorized the Executive Council to regulate marriage and family therapists, professional counselors, psychologists, and social workers. Sections 507.151 and 507.152 of the Tex. Occ. Code authorizes the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code, as well as adopt rules as necessary to perform the Executive Council's duties and implement Chapter 507. Section 507.154 of the Tex. Occ. Code authorizes the Executive Council to set fees necessary to cover the costs of administering Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code. The new rule establishes application and renewal fees in the amount necessary to meet the contingency rider found in §18.11 of Art. IX in the General Appropriations Act for 2020-2021, see Tex. H.B. 1, 86th Leg., R.S. (2019).

List of interested groups or associations against the rule.

The Texas Counseling Association
The Texas Psychological Association
The Fort Bend Psychological Association
The Texas Association of Marriage and Family Therapists
The National Association of Social Workers - Texas Chapter
The Texas Society for Clinical Social Work

Summary of comments against the rule.

Commenters voiced their disapproval with the increase in fees, and many asked for a reduction in either the increase of the fees or a reduction in the fees previously charged. Some of the commenters believed licensing's fees were already too high and others requested that the fees stay the same. A group of licensees, psychologists, voiced their disapproval that the fees for their particular licensure application and renewals was substantially higher than others license types, some believed they were paying a disproportionate amount to fund the agency, and requested either a decrease in their fees or that all fees be the same for each license type. Some commenters voiced an opinion that an increase in fees will negatively impact businesses, while others believed businesses will be negatively impacted until the fees for all license types are the same. Some commenters also believed that having different fees for different licenses will reduce competition and put those license types with higher fees at a competitive disadvantage.

List of interested groups or associations for the rule.

None.

Summary of comments for the rule.

None.

Agency Response.

The agency must generate enough revenue to meet the contingency rider found in §18.11 of Art. IX in the General Appropriations Act for 2020-2021. Therefore, in order to meet this obligation, some of the current fees for applications and renewals must be increased.

This adopted rule will increase application fees for the following license types: Licensed Baccalaureate Social Worker (LBSW) and Licensed Master Social Worker (LMSW) applications will increase by \$29; Licensed Clinical Social Worker (LCSW) applications will increase by \$29; Social Worker supervisor status applications will increase by \$30; initial Licensed Marriage and Family Therapist (LMFT) associate applications will increase by \$29; LMFT by endorsement applications will increase by \$31; LMFT supervisor status applications will increase by \$30; Licensed Professional Counselor (LPC), LPC intern, and provisional license applications will increase by \$31; and LPC supervisor status applications will decrease by \$50.

This adopted rule will increase renewal fees for the following license types: LBSW and LMSW renewal applications will increase by \$61; LMSW advanced practitioner and LCSW renewal applications will increase by \$63; LMFT and LMFT associate renewal applications will increase by \$11; LPC renewal applications will increase by \$41; LPC supervisor status renewal applications will decrease by \$50; and Licensed Specialist in School Psychology renewal applications will increase by \$21. This adopted rule will create a new fee for the renewal of supervisor status for social workers which will be \$50.

Those license types not listed will have no increase in application or renewal fees. For example, the application fee for psychologists may appear to have increased but the application process for licensure as a psychologist now includes the prior provisional licensure processes, so the net increase is effectively zero.

In order to equitably distribute the fees among the different license types, the agency started with the current application and renewal fees. In order to meet the legislatively mandated revenue requirement and in effort to implement the smallest possible changes to the current fee structure in place, those fees that were substantially higher than others stayed the same while those fees that were lower were increased modestly as listed above.

Several psychologists commented that by paying higher fees they were paying a disproportionate amount to fund the agency then other license types so they would be paying more and receiving the same benefits as others. This comment is not mathematically correct. According to the 2017 Sunset Commission report there are approximately 4,826 psychologists, if all renew their license under the new renewal fee of \$412 it will generate approximately \$1,988,312. According to the 2015 Sunset Commission report there are approximately 23,797 social workers, if all renew their license under the new renewal fee of \$135 it will generate approximately \$3,212,595. As a licensee group, psychologists will not be contributing a larger amount of revenue to the agency, the opposite is actually correct. Additionally, such a comment runs contrary to the intended purpose for the creation of the Executive Council, so that multiple mental health professions could come together, to pool resources, and become a more efficient regulatory body, as opposed to each licensed profession remaining siloed, having little interaction with each other.

Currently all license types are active in the Texas marketplace, and there is no current indication or data to support one license

type has a competitive advantage or disadvantage over the other due to the current fee structure. The commenters have provided no empirical data or other information to support any anti-competitive effect the current fee structure has on the Texas marketplace. The commenters assume an increased fee or higher fee directly correlates to an anti-competitive effect, but psychologists have historically paid higher fees than other license types and again there is no current data to demonstrate one mental health profession has a competitive advantage or disadvantage over the other due to the current fees in place.

For these reasons the agency declines to make the requested changes, and hereby adopts the rule with no changes.

Statutory Authority.

The new rule is adopted under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council adopts this new rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

The Executive Council adopts this new rule pursuant to the authority found in §507.154 of the Tex. Occ. Code which authorizes the Executive Council to set fees necessary to cover the costs of administering Chapters 501, 502, 503, 505, and 507 of the Tex. Occ. Code.

Lastly, the Executive Council adopts these new rules under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

The agency certifies that legal counsel has reviewed the adoption and found it to be a valid exercise of the agency's legal authority.

Executive Council Fees

885.1. Executive Council Fees.

(a) General provisions.

- (1) All fees are nonrefundable and cannot be waived except as otherwise permitted by law.**
- (2) Fees required to be submitted online to the Council must be paid by debit or credit card. All other fees paid to the Council must be in the form of a personal check, cashier's check, or money order.**
- (3) For applications and renewals the Council is required to collect fees to fund the Office of Patient Protection (OPP) in accordance with Texas Occupations Code §101.307, relating to the Health Professions Council.**
- (4) For applications, examinations, and renewals the Council is required to collect subscription or convenience fees to recover costs associated with processing through Texas.gov.**
- (5) All examination fees are to be paid to the Council's designee.**

(b) The Executive Council adopts the following chart of fees:

Figure: 22 TAC §885.1

(c) Late fees.

- (1) If the person's license has been expired for 90 days or less, the person may renew the license by paying to the Council a fee in an amount equal to one and one-half times the base renewal fee.**
- (2) If the person's license has been expired for more than 90 days but less than one year, the person may renew the license by paying to the Council a fee in an amount equal to two times the base renewal fee.**
- (3) If the person's license has been expired for one year or more, the person may not renew the license; however, the person may apply for reinstatement of the license.**

(d) Open Records Fees. In accordance with §552.262 of the Government Code, the Council adopts by reference the rules developed by the Office of the Attorney General in 1 TAC Part 3, Chapter 70 (relating to Cost of

Copies of Public Information) for use by each governmental body in determining charges under Government Code, Chapter 552 (Public Information) Subchapter F (Charges for Providing Copies of Public Information).

- (e) **Military Exemption for Fees.** All licensing and examination base rate fees payable to the Council are waived for the following individuals:
 - (1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all licensure requirements; and
 - (2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this state.

Figure: 22 TAC §885.1

<u>Fees</u>	<u>Total Fee</u>	<u>Base</u>	<u>Texas.gov</u>	<u>OPP</u>	<u>eStrategy</u>
APPLICATION FEES					
Social Workers					
LBSW or LMSW Application	\$ 109.00	\$ 100.00	\$ 4.00	\$ 5.00	
LCSW Application (LMSW-AP applications no longer accepted)	\$ 129.00	\$ 120.00	\$ 4.00	\$ 5.00	
Upgrade from LBSW to LMSW	\$ 20.00	\$ 20.00			
Upgrade from LMSW to LMSW-AP/LCSW	\$ 20.00	\$ 20.00			
Independent Practice Recognition	\$ 20.00	\$ 20.00			
Supervisor Status Application	\$ 50.00	\$ 50.00			
Temporary License Application	\$ 30.00	\$ 30.00			
Marriage and Family Therapists					
Initial LMFT Associate Application	\$ 69.00	\$ 60.00	\$ 4.00	\$ 5.00	
Upgrade from LMFT Associate to LMFT	\$ 90.00	\$ 90.00			
LMFT by Endorsement Application	\$ 161.00	\$ 150.00	\$ 6.00	\$ 5.00	
Supervisor Status Application	\$ 50.00	\$ 50.00			
Professional Counselors					
LPC Intern/LPC/Provisional License Application	\$ 221.00	\$ 210.00	\$ 6.00	\$ 5.00	
Supervisor Status Application	\$ 50.00	\$ 50.00			
Art Therapy Designation	\$ 20.00	\$ 20.00			
Psychologists/Psychological Associates/Specialists in School Psychology					
LPA Application	\$ 325.00	\$ 320.00		\$ 5.00	
LP Application	\$ 450.00	\$ 445.00		\$ 5.00	
LP License Issuance Fee	\$ 381.00	\$ 381.00			
LSSP Application	\$ 280.00	\$ 275.00		\$ 5.00	
Temporary License Application	\$ 100.00	\$ 100.00			
RENEWAL FEES					

Figure: 22 TAC §885.1

Social Workers									
LBSW/LMSW Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00					
LMSW-AP/LCSW Renewal	\$ 163.00	\$ 155.00	\$ 6.00	\$ 2.00					
Additional Renewal Fee for Independent Practice Recognition	\$ 20.00	\$ 20.00							
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00							
Marriage and Family Therapists									
LMFT/LMFT Associate Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00					
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00							
LMFT Associate Extension	\$ 136.00	\$ 130.00	\$ 4.00	\$ 2.00					
Professional Counselors									
LPC Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00					
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00							
Psychologists/Psychological Associates/Specialists in School Psychology									
LPA Renewal	\$ 238.00	\$ 230.00	\$ 6.00	\$ 2.00					
LP Renewal	\$ 424.00	\$ 412.00	\$ 10.00	\$ 2.00					
LSSP Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00					
Over 70 Renewal - Applicable only to licensees who turned 70 by 8/31/2020	\$ 26.00	\$ 20.00	\$ 4.00	\$ 2.00					
Additional Renewal Fee for HSP Designation	\$ 40.00	\$ 40.00							
EXAMINATION FEES									
Social Workers									
Jurisprudence Exam	\$ 39.00		\$ 5.00					\$ 34.00	
Marriage and Family Therapists									
Jurisprudence Exam	\$ 39.00		\$ 5.00					\$ 34.00	
Professional Counselors									

Figure: 22 TAC §885.1

Jurisprudence Exam	\$ 39.00		\$ 5.00		\$ 34.00
Psychologists/Psychological Associates/Specialists in School Psychology					
Jurisprudence Exam	\$ 39.00		\$ 5.00		\$ 34.00
MISCELLANEOUS FEES					
Duplicate Renewal Permit or License	\$ 10.00				
Written Verification of Licensure	\$ 10.00				
Written State to State Verification of Licensure	\$ 50.00				
Mailing List	\$ 10.00				
Returned Check Fee	\$ 25.00				
Criminal History Evaluation	\$ 150.00				
Reinstatement of License	\$ 500.00				
Request for Inactive Status	\$ 106.00	\$ 100.00	\$ 4.00	\$ 2.00	
Inactive Status Renewal (biennial)	\$ 106.00	\$ 100.00	\$ 4.00	\$ 2.00	
Request to Reactivate License from Inactive Status	equal to current renewal fee				
Late fee for license expired 90 days or less	equal to 1.5 times the base renewal fee				
Late fee for license expired more than 90 days, but less than one year	equal to 2 times the base renewal fee				

<u>Fees</u>	<u>Total Fee</u>	<u>Base</u>	<u>Texas.gov</u>	<u>OPP</u>	<u>eStrategy</u>
APPLICATION FEES					
Social Workers					
LBSW or LMSW Application	\$ 109.00	\$ 100.00	\$ 4.00	\$ 5.00	
LCSW Application (LMSW-AP applications no longer accepted)	\$ 129.00	\$ 120.00	\$ 4.00	\$ 5.00	
Upgrade from LBSW to LMSW	\$ 20.00	\$ 20.00			
Upgrade from LMSW to LMSW-AP/LCSW	\$ 20.00	\$ 20.00			
Independent Practice Recognition	\$ 20.00	\$ 20.00			
Supervisor Status Application	\$ 50.00	\$ 50.00			
Temporary License Application	\$ 30.00	\$ 30.00			
Marriage and Family Therapists					
Initial LMFT Associate Application	\$ 69.00	\$ 60.00	\$ 4.00	\$ 5.00	
Initial Licensure Fee	\$ 90.00	\$ 90.00			
Upgrade from LMFT Associate to LMFT	\$ 90.00	\$ 90.00			
LMFT by Endorsement Application	\$ 161.00	\$ 150.00	\$ 6.00	\$ 5.00	
Supervisor Status Application	\$ 50.00	\$ 50.00			
Professional Counselors					
LPC Intern/LPC/Provisional License Application	\$ 221.00	\$ 210.00	\$ 6.00	\$ 5.00	
Supervisor Status Application	\$ 50.00	\$ 50.00			
Art Therapy Designation	\$ 20.00	\$ 20.00			
Psychologists/Psychological Associates/Specialists in School Psychology					
LPA Application	\$ 325.00	\$ 320.00		\$ 5.00	
LP Application	\$ 450.00	\$ 445.00		\$ 5.00	
LP License Issuance Fee	\$ 381.00	\$ 381.00			
LSSP Application	\$ 280.00	\$ 275.00		\$ 5.00	
Temporary License Application	\$ 100.00	\$ 100.00			
RENEWAL FEES					
Social Workers					
LBSW/LMSW Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
LMSW-AP/LCSW Renewal	\$ 163.00	\$ 155.00	\$ 6.00	\$ 2.00	
Additional Renewal Fee for Independent Practice Recognition	\$ 20.00	\$ 20.00			
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00			
Marriage and Family Therapists					
LMFT/LMFT Associate Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00			
LMFT Associate Extension	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
Professional Counselors					
LPC Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ 50.00			
Psychologists/Psychological Associates/Specialists in School Psychology					
LPA Renewal	\$ 238.00	\$ 230.00	\$ 6.00	\$ 2.00	
LP Renewal	\$ 424.00	\$ 412.00	\$ 10.00	\$ 2.00	
LSSP Renewal	\$ 141.00	\$ 135.00	\$ 4.00	\$ 2.00	
Over 70 Renewal - Applicable only to licensees who turned 70 by 8/31/2020	\$ 26.00	\$ 20.00	\$ 4.00	\$ 2.00	
Additional Renewal Fee for HSP Designation	\$ 40.00	\$ 40.00			
EXAMINATION FEES					
Social Workers					
Jurisprudence Exam	\$ 39.00	\$ 5.00	\$ -		\$ 34.00
Marriage and Family Therapists					
Jurisprudence Exam	\$ 39.00	\$ 5.00	\$ -		\$ 34.00
Professional Counselors					
Jurisprudence Exam	\$ 39.00	\$ 5.00	\$ -		\$ 34.00
Psychologists/Psychological Associates/Specialists in School Psychology					
Jurisprudence Exam	\$ 39.00	\$ 5.00	\$ -		\$ 34.00
MISCELLANEOUS FEES					
Duplicate Renewal Permit or License	\$ 10.00				

Written Verification of Licensure	\$ 10.00				
Written State to State Verification of Licensure	\$ 50.00				
Mailing List	\$ 10.00				
Returned Check Fee	\$ 25.00				
Criminal History Evaluation	\$ 150.00				
Reinstatement of License	\$ 500.00				
Request for Inactive Status	\$ 106.00	\$ 100.00	\$ 4.00	\$ 2.00	
Inactive Status Renewal (biennial)	\$ 106.00	\$ 100.00	\$ 4.00	\$ 2.00	
Request to Reactivate License from Inactive Status	equal to current renewal fee				
Late fee for license expired 90 days or less	equal to 1.5 times the base renewal fee				
Late fee for license expired more than 90 days, but less than one year	equal to 2 times the base renewal fee				

SUBCHAPTER A. GENERAL PROVISIONS ~~[THE BOARD.]~~

§681.1 Purpose

The purpose of this chapter is to implement the provisions of Texas Occupations Code, Chapter 503 (the Licensed Professional Counselor Act, or the Act), concerning the licensing and regulation of professional counselors.

§681.2 Definitions

The following words and terms, as used in this chapter, shall have the following meanings unless the context clearly indicates otherwise.

(1) Accredited school--An institution of higher education accredited by a regional ~~[regionally]~~ accrediting agency recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education ~~[Texas Higher Education Coordinating Board]~~.

(2) Act--The Licensed Professional Counselor Act, Texas Occupations Code, Chapter 503.

~~**(3)** APA--The Administrative Procedure Act, Texas Government Code, Chapter 2001.~~

(3)~~**(4)**~~ Art therapy--A human service profession in which clients, facilitated by the art therapist, use art media, the creative process, and the resulting artwork to explore their feelings, reconcile emotional conflicts, foster self-awareness, manage behavior, develop social skills, improve reality orientation, reduce anxiety and increase self-esteem.

(4)~~**(5)**~~ Board--The Texas State Board of Examiners of Professional Counselors.

(5)~~**(6)**~~ Client(s)--A person(s) who requests and receives counseling services from a licensee or who has engaged in a therapeutic relationship with a licensee.

~~**(7)** Commission--Health and Human Services Commission.~~

(6)~~**(8)**~~ Consent for services--Process for receiving permission from the legally authorized person who agrees to services.

(7)~~**(9)**~~ Consent Form--A document executed ~~[signed]~~ by the legally authorized person to ensure the client is aware of fees and arrangements for payment; counseling purposes, goals, and techniques; restrictions placed on the license by the Council ~~[board]~~; limits on confidentiality; intent of the licensee to use another individual to provide counseling treatment intervention to the client; supervision of the licensee by another licensed health care professional including the name, address, contact information, and qualifications of the supervisor; and the name, address, and telephone number of the Council ~~[board]~~ for the purpose of reporting violations of the Act or this chapter.

(8) Council—the Texas Behavioral Health Executive Council.

~~(9)~~~~(10)~~ Counseling-related field--A mental health discipline using human development, psychotherapeutic, and mental health principles including, but not limited to, clinical or counseling psychology, psychiatry, social work, marriage and family therapy, and counseling and guidance. Non-counseling related fields include, but are not limited to, sociology, education, administration, dance therapy and theology.

(10) Executive Director—the executive director for the Texas Behavioral Health Executive Council. The executive director may delegate responsibilities to other staff members.

(11) Direct client contact--Time spent counseling clients.

(12) Health care professional--Any person licensed, certified, or registered by the state in a health related profession.

(13) Indirect hours--Time spent in management, administration or other aspects of counseling service ancillary to direct client contact.

(14) Jurisprudence exam--The Texas State Board of Examiners of Licensed Professional Counselors Jurisprudence exam. An online exam based upon the statutes and rules relating to the practice of counseling.

(15) License--An LPC license, LPC license with art therapy specialty designation, ~~[provisional license,]~~ or LPC Associate ~~[Intern]~~ license issued by the Council ~~[board]~~.

(16) Licensee---A person who holds an LPC license, LPC license with art therapy specialty designation, ~~[provisional license,]~~ or LPC Associate ~~[Intern]~~ license.

(17) LPC--Licensed Professional Counselor. A person holding an LPC license as a professional counselor with authority to practice in independent practice.

(18) LPC Associate ~~[Intern]~~--Licensed Professional Counselor Associate ~~[Intern]~~. A person who holds an LPC Associate ~~[Intern]~~ license to practice counseling only under a ~~board~~ Council-approved supervisor and not as an independent practitioner.

~~[(19) Recognized religious practitioner—A rabbi, clergyman, or person of similar status who is a member in good standing of and accountable to a denomination, church, sect or religious organization legally recognized under the Internal Revenue Code, 26 U.S.C. §501(c)(3) and other individuals participating with them in pastoral counseling if:~~

~~—(A) the counseling activities are within the scope of the performance of their regular or specialized ministerial duties and are performed under the auspices of sponsorship of the legally recognized denomination, church, sect, religious organization or an integrated auxiliary of a church as defined in Federal Tax Regulations, 26 Code of Federal Regulations, §1.6033-2(g)(i) (2012);~~

~~—(B) the individual providing the service remains accountable to the established authority of that denomination, church, sect, religious organization or integrated auxiliary; and~~

~~—(C) the person does not use the title of or hold himself or herself out as a professional counselor.]~~

~~(19)(20)~~ Supervisor--An LPC approved by the Council ~~[board]~~ as meeting the requirements set out in §681.93 of this title (relating to Supervisor Requirements) to supervise an LPC Associate ~~[Intern]~~.

§681.3 Meetings

(a) The board will hold at least two regular meetings and additional meetings as necessary during each fiscal year.

(b) The chair may call meetings after consultation with board members or by a majority of members voting at a regular meeting.

(c) Meetings will be announced and conducted under the provisions of the Texas Open Meetings Act, Texas Government Code, Chapter 551.

§681.4 Transaction of Official Business

(a) The board will transact official business only when in a legally constituted meeting with a quorum present. ~~[A quorum necessary to conduct official business is a majority of the members.]~~

~~[(b) The board will not be bound in any way by any statement or action on the part of any board or staff member except when a statement or action is pursuant to specific instructions of the board or in accordance with board rules in this chapter. Board or staff member opinions about ethical dilemmas or practice issues can never be substituted for appropriate professional consultation or legal advice.]~~

~~[(c) Robert's Rules of Order Revised will be the basis of parliamentary decisions except as otherwise provided in this chapter.]~~

§681.5 Agendas

(a) Prior to each meeting the executive director or designee will prepare and submit an agenda to each member of the board which includes items requested by members, items required by law, and other matters of board business which have been approved for discussion by the chair.

(b) The official agenda of a meeting will be filed with the Texas Secretary of State as required by law.

§681.6 Minutes

(a) The minutes of a board meeting are official only if affixed with the original signature of the chair or the chair's designee.

(b) Drafts of the minutes of each meeting will be forwarded to each member of the board for review and comments or corrections prior to approval by the board.

(c) The official minutes of the board meetings will be posted on the publicly-accessible board website.

§681.7 Elections

(a) At the meeting held nearest to August 31 of each year, the board will elect a vice-chair.

(b) A vacancy which occurs in the office of vice-chair may be filled at any regular meeting.

§681.8 Officers

(a) The chair will preside at all meetings at which he or she is in attendance and perform all duties prescribed by law or this chapter.

(b) The chair is authorized by the board to make day-to-day decisions regarding board activities in order to facilitate the responsiveness and effectiveness of the board.

(c) The vice-chair will perform the duties of the chair in case of the absence or disability of the chair.

(d) In case the office of the chair becomes vacant, the vice-chair will serve until a successor is appointed.

§681.9 Committees

(a) The board or the chair may establish committees deemed necessary to fulfill board responsibilities.

(b) The chair may appoint members of the board to serve on committees and will designate a chair for each committee.

(c) Only members of the board may be appointed to a board committee.

(d) Committee chairs will preside at all committee meetings and will make regular reports to the board.

(e) Committees may direct all reports or other materials to the executive director or designee for distribution.

(f) Committees will meet when called by the committee chair or when so directed by the board.

(g) Each committee will consist of at least one public member and one professional member, unless the board chair or vice chair authorizes otherwise.

~~§681.10 Executive Director~~

~~(a) The executive commissioner of the commission with the advice and consent of the board, shall appoint an executive director for the board. The executive director must be an employee of the commission.~~

~~(b) The executive director may delegate responsibilities to other staff members.~~

~~(c) The executive director will keep the minutes of the meetings and proceedings of the board and is the custodian of the files and records of the board.~~

~~(d) The executive director is responsible for the initiation of complaint investigations and for the presentation of formal complaints.~~

~~(e) The executive director is responsible for all correspondence for the board and obtain, assemble, or prepare reports and information that the board may direct, or as authorized or required by the commission or other agency with appropriate statutory authority.~~

~~(f) The executive director is responsible for assembling and evaluating materials submitted by an applicant for licensure. Determinations made by the executive director that propose denial of licensure are subject to the approval of the appropriate committee of the board which will make the decision on the eligibility of the applicant.]~~

§681.11 Reimbursement for Expenses

A board member is entitled to receive travel reimbursement ~~per diem and transportation~~ expenses as provided by the Texas General Appropriations Act.

~~[§681.12 Official Records of the Board~~

~~(a) Records in the possession of the board are public information and may be reviewed by inspection, duplication, or both, unless the records are excepted from public disclosure in accordance with the Public Information Act, Texas Government Code, Chapter 552.~~

~~(b) Costs of duplication will be paid by the requester at the time of or before the duplicated records are sent or given to the requester.~~

~~(c) The rules of procedure for inspection and duplication of public records contained in the Public Information Act, Texas Government Code, Chapter 552, will apply to requests received by the board.]~~

~~[§681.13 Impartiality and Non-discrimination~~

~~(a) The board will make decisions in the discharge of its statutory authority without regard to a person's age, race, religion, ethnicity, sex, disability, national origin, or genetic information.~~

~~(b) Any board member who is unable to be impartial in the determination of an applicant's eligibility for licensure or in a disciplinary action against a licensee will declare this to the board and will not participate in any board proceedings involving that applicant or licensee.~~

~~(c) A person needing accommodations under the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) in order to access board services must request reasonable accommodations in writing and may be required to provide verification of the person's disability and recommendations for appropriate accommodations from a medical, mental health,~~

rehabilitation, or educational professional or specialist qualified to make such recommendations.]

[§681.14 Fees

~~(a) The schedule of fees includes the following:~~

- ~~—(1) Application, LPC Intern, and LPC license fee—\$190;~~
- ~~—(2) Provisional license fee—\$50;~~
- ~~—(3) Supervisor status application fee—\$100;~~
- ~~—(4) LPC renewal fee—\$100;~~
- ~~—(5) Supervisor status renewal fee—\$100;~~
- ~~—(6) LPC late renewal fee:~~
 - ~~—(A) 1-90 days after license expiration—\$125; and~~
 - ~~—(B) 91-365 days after license expiration—\$150.~~
- ~~—(7) LPC active to inactive status conversion fee—\$50;~~
- ~~—(8) Supervisor status active to inactive status conversion fee—\$100;~~
- ~~—(9) License certificate or renewal card duplication or replacement fee—\$10;~~
- ~~—(10) Returned check fee—\$25;~~
- ~~—(11) Art therapy specialty designation application fee—\$30;~~
- ~~—(12) Criminal history evaluation letter fee—\$50; and~~
- ~~—(13) License verification fee—\$10.~~

~~(b) Remittances submitted to the board in payment of a required fee must be in the form of a personal check, cashier's check, money order, or online payment.~~

~~(c) Fees paid to the board are not refundable.~~

~~(d) For all applications and renewal applications, the commission is authorized to collect subscription and convenience fees in amounts approved by the Texas Department of Information Resources to recover costs associated with application and renewal application processing through the state electronic Internet portal.~~

~~(e) For all applications and renewal applications, the board is authorized to collect fees to fund the Office of Patient Protection, Health Professions Council, as mandated by law.]~~

[§681.15 Processing Procedures

~~Time periods. The board will comply with the following procedures in processing applications for a license and renewal of a regular license:~~

~~(1) The following periods of time will apply from the date of receipt of an application until the date of issuance of a written notice the application is complete and accepted for filing, temporary license, or notice the application is deficient and additional specific information is required. The time periods are as follows:~~

~~(A) issuance of temporary license—20 working days; or~~

~~-(B) letter of application deficiency—20 working days.~~

~~-(2) The letter of denial of a license will be sent within 30 working days from the receipt of the last item necessary to complete the application.~~

~~-(3) The period of time from the receipt of the application for renewal of an LPC license until the renewal card is issued or written notice is given that the application is deficient and additional specific information is required is 20 working days. The LPC license renewal may be issued in lieu of the notice of acceptance. The time from the receipt of the last item necessary to complete the application for renewal until issuance of the renewed license or notification of denial of renewal is 20 working days.]~~

[§681.16 Petition for the Adoption of a Rule

~~(a) A person has the right to petition the board to adopt a rule.~~

~~(b) The petition must be in writing; must state the petitioner's name, address, and phone number; and must contain the following:~~

~~(1) a brief explanation of and justification for the proposed rule;~~

~~(2) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;~~

~~(3) a statement of the statutory or other authority under which the rule is to be promulgated; and~~

~~(4) the public benefit anticipated as a result of adopting the rule or the anticipated injury or inequity which could result from failure to adopt the proposed rule.~~

~~(c) The petition must be submitted to the executive director.~~

~~(d) The executive director or his or her designee may determine the petition does not contain the information described in subsection (a) of this section and will return the petition to the petitioner.~~

~~(e) Except as otherwise provided in subsection (i) of this section, the executive director will submit a completed petition to the board for consideration.~~

~~(f) The board will deny the petition or institute rule-making procedures in accordance with the APA at the first full board meeting after receiving the petition. The board may deny parts of the petition or institute rule-making procedures on parts of the petition.~~

~~(g) If the board denies the petition, the board will give the petitioner written notice of the board's denial, including the board's reasons for the denial.~~

~~(h) If the board initiates rule-making procedures, the version of the rule which the board proposes may differ from the version proposed by the petitioner.~~

~~(i) All initial petitions for the adoption of a rule will be presented to and decided by the board in accordance with the provisions of this section. The board may refuse to consider a subsequent~~

~~petition for the adoption of the same or similar rule submitted within six months after the date of an initial petition.}]~~

~~[§681.17 Request for Criminal History Evaluation Letter~~

~~(a) In accordance with Texas Occupations Code, §53.102, a person may request the board to issue a criminal history evaluation letter regarding the person's eligibility for a license if the person:~~

~~(1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and~~

~~(2) has reason to believe the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense.~~

~~(b) A person making a request for issuance of a criminal history evaluation letter must submit the request on a form prescribed by the board, accompanied by the criminal history evaluation letter fee and the required supporting documentation, as described on the form. The request must state the basis for the person's potential ineligibility.~~

~~(c) The board has the same authority to investigate a request submitted under this subsection and the requestor's eligibility as the board has to investigate a person applying for a license.~~

~~(d) If the board determines a ground for ineligibility does not exist, the board will notify the requestor in writing of the determination. The notice will be issued not later than 90 days after the date the board received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form.~~

~~(e) If the board determines the requestor is ineligible for a license, the board will issue a letter setting out each basis for potential ineligibility and the board's determination as to eligibility. The letter will be issued not later than 90 days after the date the commission received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form. In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the board at the time the letter is issued, the board ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.}]~~

SUBCHAPTER B RULES OF PRACTICE ~~AUTHORIZED COUNSELING METHODS AND PRACTICES~~

§681.31 Counseling Methods and Practices

The use of specific methods, techniques, or modalities within the practice of professional counseling is limited to professional counselors appropriately trained and competent in the use of such methods, techniques, or modalities. Authorized counseling methods, techniques and modalities may include, but are not restricted to, the following:

(1) individual counseling which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, and affective methods and strategies to achieve mental, emotional,

physical, social, moral, educational, career, and spiritual development and adjustment through the life span;

(2) group counseling which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, and affective methods and strategies to achieve mental, emotional, physical, social, moral, educational, spiritual, and career development and adjustment through the life span;

(3) marriage/couples counseling which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, affective and family systems methods and strategies to achieve resolution of problems associated with cohabitation and interdependence of adults living as couples;

(4) family counseling which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, affective and family systems methods and strategies with families to achieve mental, emotional, physical, moral, social, educational, spiritual, and career development and adjustment through the life span;

(5) addictions counseling which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, affective methods and strategies, and 12-step methods to achieve abstinence from the addictive substances and behaviors by the client;

(6) rehabilitation counseling which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, and affective methods and strategies to achieve adjustment to a disabling condition and to reintegrate the individual into the mainstream of society;

(7) education counseling which uses formal and informal counseling methods and assessments and appraisal instruments for the purpose of determining strength, weakness, mental condition, emotional stability, intellectual ability, interest, skill, aptitude, achievement, and other personal characteristics of individuals for the selection of and placement in educational settings, preschool through postdoctoral study;

(8) career development counseling which uses formal and informal counseling methods and appraisal instruments for the purpose of determining intellectual ability, interest, skill, aptitude, achievement, mental condition, emotional fitness, and other personal characteristics for occupational, vocational, and career selection and placement throughout the life span;

(9) sexual issues counseling which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, and affective methods and strategies in the resolution of sexual disorders;

(10) referral counseling which uses the processes of evaluating and identifying needs of clients to determine the advisability of referral to other specialists, informing the client of such judgment and communicating as requested or deemed appropriate to such referral sources;

(11) psychotherapy which uses interpersonal, cognitive, cognitive-behavioral, behavioral, psychodynamic, and affective methods and/or strategies to assist clients in their efforts to recover from mental or emotional issues;

(12) play therapy which uses play and play media as the child's natural medium of self-expression, and verbal tracking of the child's play behaviors and feelings as a part of the therapist's role in helping children overcome their social, emotional, and behavioral issues;

(13) hypnotherapy which uses the principles of hypnosis and post-hypnotic suggestion in the treatment of mental and emotional issues and addictions;

(14) expressive modalities used in the treatment of interpersonal, emotional or mental health issues, chemical dependency, or human developmental issues. Modalities include but are not limited to, music, art, dance movement, or the use of techniques employing animals in providing treatment;

(15) biofeedback which uses electronic equipment to monitor and provide feedback regarding an individual's physiological responses. The counselor who uses biofeedback must be able to prove academic preparation and supervision in the use of the equipment as a part of the counselor's academic program or the substantial equivalent provided through approved continuing education;

(16) assessing and appraising, in compliance with §681.43 of this title (relating to Testing), which uses formal and informal instruments and procedures, for which the counselor has received appropriate training and supervision, in individual and group settings for the purposes of determining the client's strengths and weaknesses, mental status, emotional stability, intellectual ability, interests, aptitudes, achievement level and other characteristics for diagnosing mental health disorders; but does not permit the diagnosis of a physical condition or physical disorder;

(17) consulting which uses the application of specific principles and procedures in counseling to provide assistance in understanding and solving current or potential problems that the consultee may have in relation to a third party, whether individuals, groups, or organizations but not considered direct client contact for LPC Associates ~~Interns~~; and

(18) crisis counseling which focuses on short term counseling interventions to address immediate situations including factors such as safety and immediate needs.

SUBCHAPTER C CODE OF ETHICS

§681.41 General Ethical Requirements

(a) A licensee must not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the licensee's services, including, but not limited to:

(1) the effectiveness of services;

(2) the licensee's qualifications, capabilities, background, training, experience, education, professional affiliations, fees, products, or publications; or

(3) the practice or field of counseling.

(b) A licensee must not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the services of a mental health organization or agency, including, but not limited to, the effectiveness of services, qualifications, or products.

(c) A licensee must discourage a client from holding exaggerated or false ideas about the licensee's professional services, including, but not limited to, the effectiveness of the services, practice, qualifications, associations, or activities. If a licensee learns of exaggerated or false ideas held by a client or other person, the licensee must take immediate and reasonable action to correct the ideas held.

(d) A licensee must make reasonable efforts to discourage others whom the licensee does not control from making misrepresentations; exaggerated or false claims; or false, deceptive, or fraudulent statements about the licensee's practice, services, qualifications, associations, or activities. If a licensee learns of a misrepresentation; exaggerated or false claim; or false, deceptive, or fraudulent statement made by another, the licensee must take immediate and reasonable action to correct the statement.

(e) Regardless of setting, a licensee must provide counseling only in the context of a professional relationship. Prior to providing services, a licensee must obtain from an individual a signed informed consent, signed written receipt of information, or in the case of involuntary treatment a copy of the appropriate court order, including the following:

(1) fees and arrangements for payment;

(2) counseling purposes, goals, and techniques;

(3) any restrictions placed on the license by the Council ~~{board}~~;

(4) the limits on confidentiality;

(5) any intent of the licensee to use another individual to provide counseling treatment intervention to the client; and

(6) supervision of the licensee by another licensed health care professional including the name, address, contact information and qualifications of the supervisor;

(7) the name, address and telephone number of the Council ~~{board}~~ for the purpose of reporting violations of the Act or this chapter; and

(8) the established plan for the custody and control of the client's mental health records in the event of the licensee's death or incapacity, or the termination of the licensee's counseling practice.

(f) A licensee must inform the client in writing of any changes to the items in subsection (e) of this section prior to initiating the change.

(g) Technological means of communication may be used to facilitate the therapeutic counseling process.

(h) In accordance with §503.401(a)(4) of the Act, a licensee must not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or

covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting clients or patronage.

(i) A licensee employed or under contract with a chemical dependency facility or a mental health facility must comply with the requirements in the Texas Health and Safety Code, §164.006, relating to soliciting and contracting with certain referral sources. Compliance with the Treatment Facilities Marketing Practices Act, Texas Health and Safety Code Chapter 164, will not be considered as a violation of state law relating to illegal remuneration.

(j) A licensee must not engage in activities for the licensee's personal gain at the expense of a client.

(k) A licensee may promote the licensee's personal or business activities to a client if such activities, services or products are to facilitate the counseling process or help achieve the client's counseling goals. Prior to engaging in any such activities, services or product sales with the client, the licensee must first inform the client of the licensee's personal and/or business interest therein. A licensee must not exert undue influence in promoting such activities, services or products.

(l) A licensee must set and maintain professional boundaries.

(m) Except as provided by this subchapter, non-therapeutic relationships with clients are prohibited.

(1) A non-therapeutic relationship is any non-counseling activity initiated by either the licensee or client that results in a relationship unrelated to therapy.

(2) A licensee may not engage in a non-therapeutic relationship with a client if the relationship begins less than two (2) years after the end of the counseling relationship; the non-therapeutic relationship must be consensual, not the result of exploitation by the licensee, and is not detrimental to the client.

(3) A licensee may not engage in sexual contact with a client if the contact begins less than five (5) years after the end of the counseling relationship; the non-therapeutic relationship must be consensual, not the result of exploitation by the licensee, and is not detrimental to the client.

(4) For purposes of paragraphs (2) and (3) of this subsection, the licensee must be able to demonstrate there has been no exploitation and the non-therapeutic relationship is not detrimental to the client in light of all relevant factors, including, but not limited to, the factors set forth in §681.42(b)(4)(A) - (G) of this title (relating to Sexual Misconduct).

(5) The licensee must not provide counseling services to previous or current:

(A) family members;

(B) personal friends;

(C) educational associates; or

(D) business associates.

(6) The licensee must not give or accept a gift from a client or a relative of a client valued at more than \$50, borrow or lend money or items of value to clients or relatives of clients, or accept payment in the form of goods or services rendered by a client or relative of a client.

(7) The licensee must not enter into a non-professional relationship with a client's family member or any person having a personal or professional relationship with a client if the licensee knows or reasonably should have known such a relationship could be detrimental to the client.

(n) The licensee must not knowingly offer or provide counseling to an individual concurrently receiving counseling treatment intervention from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent therapy, the licensee must request release from the client to inform the other professional and strive to establish positive and collaborative professional relationships.

(o) A licensee may take reasonable action to inform medical or law enforcement personnel if the licensee determines there is a probability of imminent physical injury by the client to the client or others, or there is a probability of immediate mental or emotional injury to the client.

(p) The licensee must take reasonable precautions to protect clients from physical or emotional harm resulting from interaction:

(1) within a group; or

(2) individual counseling.

(q) For each client, a licensee must keep accurate records of:

(1) signed informed consent, signed written receipt of information, or, in the case of involuntary treatment, a copy of the appropriate court order

(2) intake assessment;

(3) dates of counseling treatment intervention;

(4) principal treatment methods;

(5) progress notes;

(6) treatment plan; and

(7) billing information.

(r) In the absence of applicable state and federal laws, rules or regulations, records [Records] held by a licensee must be kept for a minimum of seven (7) [six (6)] years from the date of the last contact termination of services with the client, or five (5) years after the client reaches the age of majority, whichever is greater.

(s) Records created by licensees during the scope of their employment by agencies or institutions that maintain client records are not required to comply with (q) and (r) of this section.

(t) Billing Requirements.

(1) A licensee must bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual written agreement.

(2) Relationships between a licensee and any other person used by the licensee to provide services to a client must be so reflected on billing documents.

(3) Pursuant to Texas Health and Safety Code, Chapter 611, on the written request of a client, a client's guardian, or a client's parent (sole managing, joint managing or possessory conservator) if the client is a minor, a licensee must provide, in plain language, a written explanation of the types of treatment and charges for counseling treatment intervention previously made on a bill or statement for the client. This requirement applies even if the charges are to be paid by a third party.

(4) A licensee may not knowingly overcharge a client.

(5) With the exception of an unkept appointment, a licensee may not submit to a client or a third party payor a bill for counseling treatment intervention the licensee knows or should know is improper, unreasonable, or unnecessary.

(u) A licensee must comply with all requirements of Texas Health and Safety Code Chapters 611 and 181 concerning the release of mental health records and confidential information.

(v) Prior to the commencement of counseling services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order, as well as any applicable part of the divorce decree. A licensee must maintain these documents in the client's record and abide by the documents at all times. When federal or state statutes provide an exemption to secure consent of a parent or guardian prior to providing services to a minor, a licensee must follow the protocol set forth in such federal or state statutes.

(w) A licensee must terminate a professional counseling relationship when it is reasonably clear the client is not benefiting from the relationship.

(x) Upon termination of a relationship if professional counseling is still necessary, the licensee must take reasonable steps to facilitate the transfer to appropriate care.

(y) A licensee must not evaluate any individual's mental, emotional, or behavioral condition unless the licensee has personally interviewed the individual or the licensee discloses in the evaluation the licensee has not personally interviewed the individual.

(z) A licensee must not knowingly overtreat a client.

(aa) A licensee must not aid or abet the unlicensed practice of professional counseling by a person required to be licensed under the Act.

(bb) A licensee must report to the Council ~~board~~ knowledge of any unlicensed practice of counseling.

(cc) A licensee or an applicant must not participate in the falsification of any materials submitted to the Council ~~[board]~~.

(dd) A licensee must not provide services while impaired by a physical, mental, or medical condition or by medication, drugs or alcohol.

§681.42 Sexual Misconduct

(a) For the purpose of this section the following terms have the following meanings.

(1) "Mental health provider" means a licensee or any other licensed mental health professional, including a licensed social worker, a chemical dependency counselor, a licensed marriage and family therapist, a physician, a psychologist, or a member of the clergy. Mental health provider also includes employees of these individuals or employees of a treatment facility.

(2) Sexual contact means:

(A) deviate sexual intercourse as defined by the Texas Penal Code, §21.01;

(B) sexual contact as defined by the Texas Penal Code, §21.01;

(C) sexual intercourse as defined by the Texas Penal Code, §21.01; or

(D) requests or offers by a licensee for conduct described by subparagraph (A), (B), or (C) of this paragraph.

(3) "Sexual exploitation" means a pattern, practice, or scheme of conduct, including sexual contact, that can reasonably be construed as being for the purposes of sexual arousal gratification or sexual abuse of any person. The term does not include obtaining information about a client's sexual history within standard accepted practice while treating a sexual or relationship dysfunction.

(4) "Therapeutic deception" means a representation by a licensee that sexual contact with, or sexual exploitation by, the licensee is consistent with, or a part of, a client's or former client's counseling.

(b) A licensee must not engage in sexual contact with or sexual exploitation of a person who is:

(1) a client

(2) an LPC Associate ~~[Intern]~~ supervised by the licensee; or

(3) a student of a licensee at an educational institution at which the licensee provides professional or educational services.

(4) Sexual contact that occurs more than five years after the termination of the client relationship, cessation of supervision of an LPC Associate ~~[Intern]~~, or termination of professional or educational services provided to a student of the licensee at a post-secondary educational institution will not be deemed a violation of this section if the conduct is consensual, not the result of sexual exploitation, and not detrimental to the client. The licensee must demonstrate there has been no exploitation in light of all relevant factors, including, but not limited to:

(A) the amount of time that has passed since therapy terminated;

(B) the nature and duration of the therapy;

(C) the circumstances of termination;

(D) the client's, LPC Associate's [~~Intern's~~], or student's personal history;

(E) the client's, LPC Associate's [~~Intern's~~], or student's current mental status;

(F) the likelihood of adverse impact on the client, LPC Associate [~~Intern~~], or student and others; and

(G) any statements or actions made by the licensee during the course of therapy, supervision, or educational services suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the client, LPC Associate [~~Intern~~], or student.

(c) A licensee must not practice therapeutic deception of a client.

(d) It is not a defense under subsections (b) - (c) of this section the sexual contact, sexual exploitation, or therapeutic deception with the client, LPC Associate [~~Intern~~], or student occurred:

(1) with the consent of the client, LPC Associate [~~Intern~~], or student;

(2) outside the professional counseling sessions of the client or student; or

(3) off the premises regularly used by the licensee for the professional, supervisory, or educational services provided to the client, LPC Associate [~~Intern~~], or student.

(e) The following may constitute sexual exploitation if done for the purpose of sexual arousal or gratification or sexual abuse of any person:

(1) sexual harassment, sexual solicitation, physical advances, or verbal or nonverbal conduct that is sexual in nature, and:

(A) is offensive or creates a hostile environment, and the licensee knows, should know, or is told this; or

(B) is sufficiently severe or intense to be abusive to a reasonable person in the context;

(2) any behavior, gestures, or expressions which may reasonably be interpreted as seductive or sexual;

(3) sexual comments about or to a person, including making sexual comments about a person's body;

(4) making sexually demeaning comments about an individual's sexual orientation;

(5) making comments about potential sexual performance except when the comment is pertinent to the issue of sexual function or dysfunction in counseling;

(6) requesting details of sexual history or sexual likes and dislikes when not necessary for counseling of the individual;

- (7) initiating conversation regarding the sexual problems, preferences, or fantasies of the licensee;
- (8) kissing or fondling;
- (9) making a request for a date;
- (10) any other deliberate or repeated comments, gestures, or physical acts not constituting sexual intimacies but of a sexual nature;
- (11) any bodily exposure of genitals, anus or breasts;
- (12) encouraging another to masturbate in the presence of the licensee; or
- (13) masturbation by the licensee when another is present.

(f) A licensee must report sexual misconduct as follows:

(1) If a licensee has reasonable cause to suspect a client, LPC Associate ~~[Intern]~~, or student has been the victim of sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health provider, or if a client, LPC Associate ~~[Intern]~~, or student alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider, the licensee must report the alleged conduct not later than the third business day after the date the licensee became aware of the conduct or the allegations to:

(A) the prosecuting attorney in the county in which the alleged sexual exploitation, sexual contact or therapeutic deception occurred; and

(B) the Council ~~[board]~~ and any other state licensing agency which licenses the mental health provider if the conduct involves a licensed individual.

(2) Before making a report under this subsection, the reporter must inform the alleged victim of the reporter's duty to report and must determine if the alleged victim wants to remain anonymous.

(3) A report under this subsection must:

(A) identify the reporter;

(B) identify the alleged victim, unless the alleged victim has requested anonymity;

(C) express suspicion sexual exploitation, sexual contact, or therapeutic deception occurred; and

(D) provide the name of the alleged perpetrator.

§681.43 Testing

(a) Prior to or following the administration of any test, a licensee must make known to clients the purposes and explicit use to be made of the test as a part of a professional counseling relationship.

(b) A licensee must not appropriate, reproduce, or modify copyrighted tests or any parts thereof without the acknowledgment and permission of the copyright owner.

(c) A licensee must not administer any test without the appropriate training and experience to administer and interpret the test.

(d) A licensee must observe the necessary precautions to maintain the security of any test administered by the licensee or under the licensee's supervision.

(e) In accordance with the §503.003(b)(1) of the Act, the use of standardized projective techniques is prohibited. This prohibition includes, but is not limited to, the Rorschach Inkblot Test, the Holtzman Inkblot Test, the Thematic Apperception Test, the Children's Apperception Test, and the Senior Apperception Test.

§681.44 Drug and Alcohol Use

A licensee must not:

(1) use alcohol or drugs in a manner that adversely affects the licensee's ability to provide counseling.[-,]

~~[(2) use illegal drugs of any kind; or]~~

~~[(3) promote or encourage the illegal use, distribution, sale, or possession of alcohol or drugs.]~~

§681.45 Confidentiality and Required Reporting

(a) Communication between a licensee and client and the client's records, however created or stored, are confidential under the provisions of the Texas Health and Safety Code Chapter 611 and other state or federal statutes or rules where such statutes or rules apply to a licensee's practice.

(b) A licensee must not disclose any communication, record, or identity of a client except as provided in Texas Health and Safety Code Chapter 611 or other state or federal statutes or rules.

(c) A licensee must comply with Texas Health and Safety Code, Chapters 181 and 611, concerning access to mental health records and confidential information.

(d) A licensee must report information as required by Council rule §§882.36 and 884.32 and the following statutes:

(1) Texas Family Code Chapter 261, Subchapter B, concerning report of abuse or neglect of minors;

(2) Texas Human Resources Code Chapter 48, Subchapter B, concerning reports of abuse, neglect, or exploitation of elderly or disabled persons;

(3) Texas Health and Safety Code Chapter 161, Subchapter L, concerning abuse, neglect, and unprofessional or unethical conduct in health care facilities; and

(4) Texas Civil Practice and Remedies Code, §81.006, concerning duty to report sexual exploitation by a mental health provider.

(5) A licensee must comply with Texas Occupations Code §109.051 relating to the release of treatment information concerning the treatment of a sex offender.

~~[(e) A licensee must submit a written report to the board office within 30 days of the following:]~~

~~[(1) an arrest of the licensee, other than for a Class C misdemeanor traffic offense;]~~

~~[(2) the filing of a criminal case against the licensee;]~~

~~[(3) a criminal conviction or deferred adjudication of the licensee, other than for a Class C misdemeanor traffic offense; or]~~

~~[(4) the filing of a disciplinary action or the taking of a disciplinary action against the licensee by another state licensing board, in either Texas or another state, or by a professional organization.]~~

~~[(f) Failure to make a report as required by subsection (e) of this section is grounds for disciplinary action by the board.]~~

§681.46 Licensees and the Council ~~[Board]~~

(a) Licensees are bound by the provisions of the Act and this chapter as well as the Council's rules and statutes.

(b) A licensee has the responsibility of reporting alleged violations of the Act or this chapter to the Council ~~[board]~~.

~~[(c) The licensee must submit a written report of any name changes, any changes in home or business address or phone number, employment setting, or other relevant changes to the board in writing within 30 days of the change.]~~

~~[(d) A licensee must provide a written response to the board's request for information or other correspondence in a timely manner. The board may consider a licensee's failure to respond in a timely manner as grounds for disciplinary action.]~~

~~[(e) A licensee must comply with any order issued by the board relating to the licensee.]~~

~~[(f) A licensee must not interfere with a board investigation by the willful misrepresentation of facts to the board or its authorized representative or by the use of threats or harassment against any person.]~~

~~[(g) A licensee who files a complaint with the board in bad faith is subject to disciplinary action.]~~

§681.47 Assumed Names

(a) An individual practice by a licensee may be established as a corporation, a limited liability partnership, a limited liability company, or other business entity in accordance with state or federal law.

(b) An assumed or trade name used by a licensee must not be false, deceptive, or misleading as those terms are described in §681.49(b) of this title (relating to Advertising and Announcements).

~~§681.48 Consumer Information~~

~~(a) A licensee must inform each client of the name, address, and telephone number of the board for the purpose of reporting violations of the Act or this chapter on:~~

- ~~(1) each application or written contract for services; or~~
- ~~(2) a sign prominently displayed in the primary place of business; or~~
- ~~(3) a bill for counseling provided to a client.~~

~~(b) A licensee must display the license certificate and current renewal card issued by the board in a prominent place in the primary practice location.~~

~~(c) The legal name of the licensee appears on the license certificate and renewal card. Licensees must include their license number on all marketing and client resource materials if they do not use their legal name in their practice.~~

~~(d) A licensee must not display a license certificate or current renewal card issued by the board which has been reproduced or is expired, suspended, or revoked.~~

~~(e) A licensee must not make any alteration to a license certificate or renewal card issued by the board.~~

~~(f) On all advertisements, billings and announcements of counseling treatment by an LPC Intern, the intern's name must be followed by the name of the supervisor in the same type size and font.]~~

§681.49 Advertising and Announcements

(a) Information used by a licensee in any advertisement or announcement must not contain information which is false, inaccurate, misleading, incomplete, out of context, deceptive or not readily verifiable. Advertising includes, but is not limited to, any announcement of services, letterhead, business cards, commercial products, and billing statements.

(b) False, misleading, or deceptive advertising or advertising that is not readily subject to verification includes advertising that:

- (1) makes any misrepresentation of fact or omits a fact necessary to make the statement misleading;
- (2) makes any representation likely to create an unjustified expectation about the results of a mental health care service or procedure;

- (3) compares a mental health care professional's services with another health care professional's services unless the comparison can be factually substantiated;
- (4) contains a testimonial that includes false, deceptive, or misleading statements, or fails to include disclaimers or warnings as to the credentials of the person making the testimonial;
- (5) causes confusion or misunderstanding as to the credentials, education, or licensure of a mental health care professional;
- (6) advertises or represents that health care insurance deductibles or co-payments may be waived or are not applicable to health care services to be provided if the deductibles or co-payments are required;
- (7) advertises or represents that the benefits of a health benefit plan will be accepted as full payment when deductibles or co-payments are required;
- (8) makes a representation that is designed to take advantage of the fears or emotions of a particularly susceptible type of patient; or
- (9) advertises or represents in the use of a professional name a title or professional identification that is expressly or commonly reserved for or used by another profession or professional.

(c) A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the statements and representations.

(d) The highest academic degree in counseling or a counseling-related field earned from an accredited school may be used when advertising or announcing counseling treatment intervention to the public or in counseling-related professional representations. A degree in counseling or a counseling-related field received at a foreign university may be used if the degree would be accepted as a transfer degree by an accredited school.

(e) Notwithstanding the foregoing, a licensee may advertise or announce his or her other degrees from an accredited school if the subject of the degree is specified.

(f) The Council ~~[board]~~ imposes no restrictions on advertising by a licensee with regard to the use of any medium, the licensee's personal appearance, or the use of his or her personal voice, the size or duration of an advertisement by a licensee, or the use of a trade name.

(g) All advertisements or announcements of counseling including telephone directory listings by a person licensed by the Council ~~[board]~~ must clearly state the licensee's licensure status by the use of a title such as "Licensed Counselor", or "Licensed Professional Counselor", or "LPC", or a statement such as "licensed by the Texas Behavioral Executive Council" with reference to the "Texas State Board of Examiners of Professional Counselors."

(h) An LPC Associate ~~[Intern]~~ must indicate Associate ~~[intern]~~ status on all advertisements, billing, and announcements of counseling treatment by the use of the term "LPC Associate ~~[Intern]~~." On all advertisements, billings and announcements of counseling treatment by an LPC Associate ~~[Intern]~~, the Associate's ~~[intern's]~~ name must be followed by the name of the supervisor ~~in the same type size and font.~~

(i) A licensee is required to hold the art therapy specialty designation in order to use the title "art therapist" or the initials "AT." A licensee who does not hold the designation may use art therapy as a counseling method but may not use the title or initials.

(j) A licensed professional counselor who is a Council-approved ~~[board-approved]~~ supervisor may use the designation "LPC-S" when advertising their supervisory status.

§681.50 Research and Publications

(a) In research with a human participant, a licensee must take reasonable precautions to ensure that the participant does not suffer emotional or physical harm.

(b) A licensee must ensure the full protection of a client's identity when using data obtained from a professional counseling relationship for the purposes of education or research.

(c) When conducting or reporting research, a licensee must give recognition to previous work on the topic as well as observe all copyright laws.

(d) A licensee must give due credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to the person/persons who have contributed significantly to the licensee's research or publication.

~~§681.51 Finding of Misconduct Occurring before Licensure~~

~~[(a) The board may take disciplinary action based upon information received after issuance of a license if such information would have been the basis for denial of licensure had it been received prior to the issuance of the license.]~~

~~[(b) The board may consider conduct prior to licensure in determining whether an applicant or licensee is qualified to practice counseling, including conduct that would have been a violation of the code of ethics if the person had been licensed.]~~

~~[(c) The board may deny a license or specialty recognition if it substantiates the applicant lacks the necessary skills and abilities to provide adequate counseling, the applicant has misrepresented any materials submitted to the board, or violated any provision of the Act or board rule in this chapter.]~~

~~[(d) To determine the applicant's fitness, the board may consider the applicant's skills and abilities to provide adequate counseling services to clients, the applicant's ethical behavior in relationships with other professionals and clients, and the applicant's worthiness of public trust and confidence.]~~

~~§681.52 LPC Interns [repealed, effective 02/28/2019]~~

§681.51 Parenting Coordination

(a) In accordance with Texas Family Code, §153.601(3), "parenting coordinator" means an impartial third party:

(1) who, regardless of the title by which the person is designated by the court, performs any function described in Texas Family Code, §153.606, in a suit; and

(2) who:

(A) is appointed under Texas Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues through confidential procedures; and

(B) is not appointed under another statute or a rule of civil procedure.

(b) A licensee who serves as a parenting coordinator has a duty to provide the following information in writing to the parties of the suit about the responsibility of the licensee and the role of the appointed court.

(1) A licensee, who serves as a parenting coordinator, is not acting under the authority of a license issued by the Council and is not engaged in the practice of professional counseling. The services provided by the licensee who serves as a parenting coordinator are not within the jurisdiction of the Council, but rather the jurisdiction of the appointing court.

(2) Records of a licensee serving as a parenting coordinator are confidential under Texas Civil Practice and Remedies Code, §154.073. Licensees serving as a confidential parenting coordinator must comply with the Texas Civil Practice and Remedies Code, Chapter 154, relating to the release of information.

(3) A licensee must not provide professional counseling services to any person while simultaneously providing parenting coordination services. This section does not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.

§681.52 Parenting Facilitation

(a) In accordance with Texas House Bill 1012, 81st Legislature, 2009, and Family Code, Chapter 153, this section establishes the practice standards for licensees who desire to serve as parenting facilitators.

(b) In accordance with Texas Family Code, §153.601(3-a), a "parenting facilitator" means an impartial third party:

(1) who, regardless of the title by which the person is designated by the court, performs any function described by Texas Family Code, §153.6061, in a suit; and

(2) who:

(A) is appointed under Texas Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues through procedures that are not confidential; and

(B) is not appointed under another statute or a rule of civil procedure.

(c) Notwithstanding any other provision of this chapter, licensees who desire to serve as parenting facilitators must comply with all applicable requirements of the Texas Family Code, Chapter 153, and this section. Licensees must also comply with all requirements of this chapter unless a provision is clearly inconsistent with the Texas Family Code, Chapter 153, or this section.

(d) In accordance with Texas Family Code, §153.6102(e), a licensee serving as a parenting facilitator must not provide other professional counseling services to any person while simultaneously providing parent facilitation services. This section does not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.

(e) In accordance with Texas Family Code, §153.6101(b)(1), a licensed professional counselor associate must not serve as a parenting facilitator.

(f) A licensee serving as a parenting facilitator utilizes child-focused alternative dispute resolution processes, assists parents in implementing their parenting plan by facilitating the resolution of disputes in a timely manner, educates parents about children's needs, and engages in other activities as referenced in Texas Family Code, Chapter 153.

(g) A licensee serving as a parent facilitator must assist the parties involved in reducing harmful conflict and in promoting the best interests of the children.

(h) A licensee serving as a parenting facilitator functions in four primary areas in providing services.

(1) Conflict management function--The primary role of the parenting facilitator is to assist the parties to work out disagreements regarding the children to minimize conflict. To assist the parents in reducing conflict, the parenting facilitator may monitor the electronic or written exchanges of parent communications and suggest productive forms of communication that limit conflict between the parents.

(2) Assessment function--A parenting facilitator must review applicable court orders, including protective orders, social studies, and other relevant records to analyze the impasses and issues as brought forth by the parties.

(3) Educational function--A parenting facilitator must educate the parties about child development, divorce, the impact of parental behavior on children, parenting skills, and communication and conflict resolution skills.

(4) Coordination/case management function--A parenting facilitator must work with the professionals and systems involved with the family (for example, mental health, health care, social services, education, or legal) as well as with extended family, stepparents, and significant others as necessary.

(i) A licensee, serving as a parenting facilitator, must be alert to the reasonable suspicion of acts of domestic violence directed at a parent, a current partner, or children. The parenting facilitator must adhere to protection orders, if any, and take reasonable measures to ensure the safety of the participants, the children and the parenting facilitator, while understanding that even

with appropriate precautions a guarantee that no harm will occur can be neither stated nor implied.

(j) In order to protect the parties and children in domestic violence cases involving power, control and coercion, a parenting facilitator must tailor the techniques used so as to avoid offering the opportunity for further coercion.

(k) A licensee serving as a parent facilitator must be alert to the reasonable suspicion of substance abuse by parents or children, as well as mental health impairment of a parent or child.

(l) A licensee serving as a parenting facilitator must not provide legal advice.

(m) A licensee serving as a parenting facilitator must serve by written agreement of the parties and/or formal order of the court.

(n) A licensee serving as a parenting facilitator must not initiate providing services until the licensee has received and reviewed the fully executed and filed court order or the signed agreement of the parties.

(o) A licensee serving as a parenting facilitator must maintain impartiality in the process of parenting facilitation. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

(p) A licensee serving as a parenting facilitator:

(1) must terminate or withdraw services if the licensee determines the licensee cannot act in an impartial or objective manner;

(2) must not give or accept a gift, favor, loan or other item of value from any party having an interest in the parenting facilitation process;

(3) must not coerce or improperly influence any party to make a decision;

(4) must not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting facilitator process; and

(5) must not accept any engagement, provide any service, or perform any act outside the role of parenting facilitation that would compromise the facilitator's integrity or impartiality in the parenting facilitation process.

(q) A licensee serving as a parenting facilitator may make referrals to other professionals to work with the family, but must avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, or similar remuneration must be given or received by a licensee for parenting facilitation or other professional referrals.

(r) A licensee serving as a parenting facilitator should attempt to bring about resolution of issues by agreement of the parties; however, the parenting facilitator is not acting in a formal mediation role. An effort towards resolving an issue, which may include therapeutic, mediation, education, and negotiation skills, does not disqualify a licensee from making recommendations regarding any issue that remains unresolved after efforts of facilitation.

(s) A licensee serving as a parenting facilitator must communicate with all parties, attorneys, children, and the court in a manner which preserves the integrity of the parenting facilitation process and considers the safety of the parents and children.

(t) A licensee serving as a parenting facilitator:

(1) may meet individually or jointly with the parties, as deemed appropriate by the parenting facilitator, and may interview the children;

(2) may interview any individuals who provide services to the children to assess the children's needs and wishes; and

(3) may communicate with the parties through face-to-face meetings or electronic communication.

(u) A licensee serving as a parenting facilitator must, prior to the beginning of the parenting facilitation process and in writing, inform the parties of:

(1) the limitations on confidentiality in the parenting facilitation process; and

(2) the basis of fees and costs and the method of payment including any fees associated with postponement, cancellation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.

(v) Information obtained during the parenting facilitation process must not be shared outside the parenting facilitation process except for professional purposes, as provided by court order, by written agreement of the parties, or as directed by the Council.

(w) In the initial session with each party, a licensee serving as a parenting facilitator must review the nature of the parenting facilitator's role with the parents to ensure that they understand the parenting facilitation process.

(x) A licensee serving as a parenting facilitator:

(1) must comply with all mandatory reporting requirements, including but not limited to Texas Family Code Chapter 261, concerning abuse or neglect of minors;

(2) must report to law enforcement or other authorities if they have reason to believe that any participant appears to be at serious risk to harm themselves or a third party;

(3) must maintain records necessary to support charges for services and expenses and must make a detailed accounting of those charges to the parties and their counsel if requested to do so;

(4) must maintain notes regarding all communications with the parties, the children, and other persons with whom they speak about the case; and

(5) must maintain records in a manner that is professional, legible, comprehensive, and inclusive of information and documents that relate to the parenting facilitation process and that support any recommendations made by the licensee.

(y) Records of a licensee serving as a parenting facilitator, are not mental health records and are not subject to the disclosure requirements of Texas Health and Safety Code, Chapter 611. At

a minimum, records must be maintained for the period of time described in §681.41(r) of this title (relating to General Ethical Requirements), or as otherwise directed by the court.

(z) Records of a licensee serving as a parenting facilitator must be released on the request of either parent, as directed by the court, or as directed by the Council.

(aa) Charges for parenting facilitation services must be based upon the actual time expended by the parenting facilitator or as directed by the written agreement of the parties and/or formal order of the court.

(bb) All fees and costs must be appropriately divided between the parties as directed by the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.

(cc) Fees may be disproportionately divided fees if one parent is disproportionately creating a need for services and if such a division is outlined in the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.

(dd) Services and activities for which a licensee serving as a parenting facilitator may charge include time spent interviewing parents, children and collateral sources of information; preparation of agreements, correspondence, and reports; review of records and correspondence; telephone and electronic communication; travel; court preparation; and appearances at hearings, depositions and meetings.

(ee) The minimum training for a licensee serving as a parent facilitator that is required by Texas Family Code, §153.6101(b)(2) is:

(1) eight hours of family violence dynamics training provided by a family violence service provider;

(2) 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court;

(3) 24 classroom hours of training in the fields of family dynamics, child development, family law; and

(4) 16 hours of training in the laws and Council rules governing parent coordination and facilitation, and the multiple styles and procedures used in different models of service.

(ff) A licensee serving as a parent facilitator must decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the licensee's skill or expertise.

(gg) Since parenting facilitation services are addressed under multiple titles in different jurisdictions nationally, acceptability of training to meet the requirements of subsection (ee) of this section is based on functional skills taught during the training rather than the use of specific titles or names.

§681.53 Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions

(a) Licensees must comply with Texas Family Code, Chapter 107, Subchapters D, E, and F concerning Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions.

(b) A licensee who has completed a doctoral degree and at least 10 court-ordered child custody evaluations under the supervision of an individual qualified by Texas Family Code, Chapter 107 to perform child custody evaluations is qualified to conduct child custody evaluations under Texas Family Code, Chapter 107. All other licensees must comply with qualifications stipulated in Texas Family Code, Chapter 107.

(c) Any complaint relating to the outcome of a child custody evaluation or adoption evaluation conducted by a licensee must be reported to the court that ordered the evaluation, see Council rule 884.3.

(d) Disclosure of confidential information in violation of Texas Family Code, §107.111 or §107.163 is grounds for disciplinary action, up to and including revocation of license, by the Council.

(e) A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a divorce, child custody determination, disability claim, or criminal prosecution, must comply with all applicable Council rules regardless of whether the licensee is acting as a factual witness or an expert.

(f) A licensee may not provide therapy and any other type of service, including but not limited to a child custody evaluation or parenting facilitation, in the same case, whether such services are delivered sequentially or simultaneously.

(g) Licensees may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation relating to the child under Texas Family Code, Subchapter D, Chapter 107.

(h) Licensees providing child custody evaluations or adoption evaluations must, prior to beginning the evaluation, in writing inform the parties of:

(1) The limitations on confidentiality in the evaluation process; and

(2) The basis of fees and costs and the method of payment, including any fees associated with postponement, cancelation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.

(i) A Licensed Professional Counselor Associate (LPC Associate) must not conduct child custody evaluations or adoption evaluations unless qualified by another professional license to provide such services.

SUBCHAPTER C [D] APPLICATION AND LICENSING [PROCEDURES]

§681.71 General Application Procedures

(a) An applicant must submit for review, an official ~~[a]~~ complete application with all supporting documentation, ~~[and]~~ all applicable fees, and information required by law to the Council ~~[board]~~. Complete applications will consist of the required application materials described in Council rules §§882.1 and 882.2 and §681.72 of this title (relating to Required Application Materials).

~~[(b) An application is officially submitted when all applicable fees are received.]~~

~~[(b)(e)]~~ To upgrade from LPC Associate ~~[Intern]~~ status to LPC, an LPC Associate ~~[Intern]~~ must submit the supervised experience documentation form, proof of passing the jurisprudence exam within six months ~~[the two years]~~ prior to upgrade, and the applicable ~~[upgrade]~~ fee~~[, if applicable.]~~

~~[(d) Staff will mail notice of deficiencies found on the application to the last reported address. The applicant must resolve all deficiencies within one year of the date of the deficiency notice.]~~

~~[(e) One year after the date of the deficiency notice, an application with an unresolved deficiency is null and void. Applicants may reapply by submitting a new application with supporting documents demonstrating satisfaction of all current licensing requirements, including examination requirements, and all applicable fees.]~~

~~[(f) Applicants who held a Texas license previously may reapply by submitting a new application with supporting documents demonstrating satisfaction of all current requirements, including examination requirements, and all applicable fees.]~~

§681.72 Required Application Materials

(a) To apply for LPC Associate ~~[Intern]~~, the applicant must submit:

(1) the Council's ~~[board's]~~ application form;

(2) all applicable fees;

(3) official examination results from the National Board of Certified Counselors verifying a passing score on the National Counselor Exam (NCE) or National Clinical Mental Health Counselor Exam (NCMHCE) issued no more than five (5) years before the date the application was received;

(4) completion certificate for the Texas jurisprudence exam dated no more than six months ~~[two years]~~ before the date the application was received ~~[is submitted]~~;

(5) an official graduate transcript(s) ~~[sent either]~~:

~~[(A) directly to the board from the school(s) either by mail or e-transcript; or]~~

~~[(B) attached to the application in a sealed school envelope;]~~

(6) a practicum/graduate intern documentation form; and

(7) a supervisory agreement form.

(8) The holder of a current license in good standing issued by another jurisdiction equivalent to the Texas LPC Associate ~~[Intern]~~ license must submit official verification of his or her license, including official verification of any supervised experience recognized by the issuing jurisdiction. If supervised experience cannot be verified by the issuing jurisdiction, the

Council ~~[board]~~ may consider a supervised experience documentation form with verification of the supervisor's credentials.

(b) To apply for LPC as the holder of a current Texas LPC Associate ~~[Intern]~~ license, the applicant must submit:

- (1) the Council's ~~[board's]~~ application form;
- (2) all applicable fees, ~~[unless paid in full when the current LPC Intern license was issued];~~
- (3) completion certificate for the jurisprudence exam dated no more than six months ~~[two years]~~ before the date the application for LPC was received;
- (4) the Council's ~~[a]~~ supervised experience documentation form; and
- (5) other information or forms as requested by the Council ~~[board]~~.

(c) To apply for LPC as the holder of a current license equivalent to a Texas LPC license issued by another jurisdiction, the applicant's license must be in good standing and must submit:

- (1) all of the items listed in subsection (a)(1)-(5) ~~[(6)]~~ of this section;
- (2) official verification of the license, including official verification of any supervised experience recognized by the issuing jurisdiction; and
- (3) other information or forms as requested by the Council ~~[board]~~.
- (4) The five-year expiration of the NCE or NCMHCE score does not apply to an applicant who has held a license issued by a United States jurisdiction in good standing for at least two (2) years before the date the application for LPC was received.

(d) To apply for supervisor status, an LPC must:

- (1) have held the LPC license in good standing for at least 60 months;
- (2) submit an application and all applicable fees; and
- (3) submit a completion certificate for an acceptable supervisor training. An acceptable supervisor training is:
 - (A) a doctoral level course in the supervision of professional counseling or mental health services which was taken for credit at an accredited school and documented on an official transcript; the qualifying doctoral level course may have been completed no more than five (5) years before the date the application for supervisor status was received; or
 - (B) a 40-clock-hour supervision course as set forth in §681.147 of this title (relating to 40-Clock-Hour Supervisor Training Course); the qualifying 40-clock-hour supervision course may have been completed no more than two (2) years before the date the application for supervisor status was received.

(e) An applicant who holds a current LPC license in good standing issued by another jurisdiction must be substantially equivalent to Texas licensure requirements.

(f) Licensure requirements that either match or exceed Texas requirements are considered to be substantially equivalent.

§681.73 Application for Art Therapy Specialty Designation

- (a) A person applying for licensure with an art therapy specialty designation must:
- (1) meet the requirements for an LPC license set out in this chapter;
 - (2) hold either:
 - (A) a master's or doctoral degree in art therapy that includes 700 hours of supervised practicum from an accredited school; or
 - (B) all of the following:
 - (i) a master's degree in a counseling-related field;
 - (ii) a minimum of 21 semester hours or the equivalent of sequential course work in the history, theory, and practice of art therapy;
 - (iii) 700 hours of supervised practicum from an accredited school;
 - (3) have the experience requirements set out in subsection (c) of this section; and
 - (4) submit documentation of successful completion of the Certification Examination in Art Therapy of the Art Therapy Credentials Board.

(b) The Council ~~{board}~~ will accept an individual course from an art therapy program accredited through the American Art Therapy Association as satisfying the education requirements set out in §681.82 of this title (relating to Academic Requirements) if not less than 75% of the course content is substantially equivalent to the content of a course required in §681.83 of this title (relating to Academic Course Content).

(c) As part of the supervised experience requirements for art therapy specialty designation under the Act, §503.303, an applicant must fulfill the requirements of §§~~681.91-681.93~~ Subchapter F of this chapter [~~(relating to Experience Requirements for Licensure)~~] and must have the following:

- (1) 1,500 client contact hours under supervision of a licensed professional counselor with an art therapy specialty designation, if the applicant holds a master's or doctoral degree in art therapy that includes 700 hours of practicum; or
- (2) 2,000 client contact hours under supervision of a licensed professional counselor with an art therapy specialty designation, if the applicant holds a master's degree in counseling or a counseling related field and has a minimum of 21 semester hours or the equivalent of sequential course work in the history, theory, and practice of art therapy with 700 hours practicum.

~~[SUBCHAPTER E ACADEMIC REQUIREMENTS FOR LICENSURE]~~

§681.81 General Academic Requirements

- (a) The Council ~~{board}~~ will accept as meeting academic requirements graduate degrees from accredited schools that meet the requirements of §681.82 of this title (relating to Academic Requirements) and §681.83 of this title (relating to Academic Course Content).
- (b) Degrees and course work received at foreign universities will be acceptable only if such course work would be counted as transfer credit by an accredited school. The applicant must provide the Council ~~{board}~~ with documents and evidence to establish his or her formal

education is equivalent to at least a master's degree granted by an accredited school. In order to meet this requirement the applicant must comply with Council rule §§882.11. [Documentation must include:]

~~[(1) an original or certified copy of a diploma or other certificate of graduation;]~~

~~[(2) a transcript or comparable document of all course work completed; and]~~

~~[(3) a certified translation of all documents submitted in a language other than English.]~~

~~[(c) If degrees or course work cannot be documented because the foreign university refuses to issue a transcript or other evidence of the degrees or course work, the board may consider, on a case by case basis, accepting degrees or course work based on other evidence presented by the foreign graduate applicant.]~~

~~(c)~~~~(d)~~ Applicants must provide upon request a course description from an official school catalog or bulletin or a course syllabus to substantiate the relevance of the course to the academic requirements of §681.83 of this title.

~~(d)~~~~(e)~~ The Council ~~[board]~~ will not consider undergraduate level courses as meeting any academic requirements for licensure unless the applicant's official transcript clearly shows the course was awarded graduate credit by the school.

~~(e)~~~~(f)~~ The Council ~~[board]~~ will consider courses for which an applicant's official transcript indicates a passing grade or credit was earned.

~~(f)~~~~(g)~~ In evaluating transcripts, the Council ~~[board]~~ will consider a quarter hour of academic credit as two-thirds of a semester hour.

§681.82 Academic Requirements

(a) Persons applying for licensure must have a graduate degree in counseling or a counseling-related field of:

(1) at least 48 semester hours of coursework in a counseling-related field for applicants who began the qualifying program before August 1, 2017; and

(2) at least 60 semester hours of coursework in a counseling-related field for applicants who began the qualifying program on or after August 1, 2017.

(b) An applicant who holds a graduate degree in a counseling-related field must have an official transcript documenting satisfaction of the requirements described in §681.83 of this title (relating to Academic Course Content).

(c) An applicant who has held a full LPC in good standing issued by a United States jurisdiction for at least two (2) years immediately preceding the date the application was received is deemed to have met all academic requirements, including the practicum.

(d) The 48/60 semester hours must be designed to train a person to provide direct services to assist clients in a professional counseling relationship using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life. The 48/60 semester hours may be course work that was part of the graduate degree in a counseling-related field, may be in addition to course work taken for the qualifying program, or a combination of both.

§681.83 Academic Course Content

(a) An applicant who holds a graduate degree in counseling from an accredited school is presumed to have satisfied the academic course content requirements described in this section.

(b) An applicant who holds a graduate degree in a counseling-related field must complete at least one course in each of the following areas:

(1) normal human growth and development - the process and stages of human intellectual, physical, social, and emotional development from prenatal origins through adulthood;

(2) abnormal human behavior - the principles of understanding dysfunction in human behavior or social disorganization;

(3) appraisal or assessment techniques - the principles, concepts, and procedures of systematic appraisal or assessment of an individual's attitudes, aptitudes, achievements, interests, and personal characteristics, which may include the use of both non-testing approaches and test instruments;

(4) counseling theories - the major theories of professional counseling;

(5) counseling methods or techniques - the methods or techniques used to provide counseling treatment intervention including:

(A) counseling individuals; and

(B) the theory and types of groups, including dynamics and the methods of practice with groups;

(6) research - the methods of research which may include the study of statistics or a thesis project;

(7) life style and career development - the theories of vocational choice, career choice and life style, sources of occupational and educational information, and career decision-making processes;

(8) social, cultural, and family issues - the studies of change, ethnic groups, gender studies, family systems, urban and rural societies, population patterns, cultural patterns, and differing life styles;

(9) professional orientation - the objectives of professional organizations, codes of ethics, legal aspects of practice, standards of preparation, and the role identity of persons providing direct counseling treatment intervention; and

(10) practicum (internship) - supervised practicum experience primarily counseling in nature which includes:

(A) At least 300 clock-hours, of which at least 100 hours must be direct client counseling.

(B) Academic credit or other acknowledgment of the practicum/internship must appear on the applicant's official graduate transcript.

(c) The remaining courses needed to meet the 48/60 graduate semester hour requirement must be counseling-related course work in areas directly supporting the development of an applicant's professional counseling skills and must be courses related primarily to professional counseling.

(d) As of August 1, 2017, the following courses must be taken in addition to those outlined in (b) of this section to meet the 60 semester hour requirement ~~[must include]~~:

(1) addictions counseling; to include, but not limited to, gambling, sexual, eating, alcohol, or drug;

(2) an additional course in counselor ethics; to include records management, an overview of business/family law and professional practice, and the study of current Council ~~[board]~~ rules ~~[in this chapter]~~;

(3) couples, marriage, or family counseling; and

(4) a course in psychopathology to include such content as criteria of psychiatric diagnosis, use of the current Diagnostic and Statistical Manual of Mental Disorders and the theories of psychopathology. The course should also include the basic knowledge of types of psychopharmacological medications.

(d) Passing the National Counselor Exam or National Clinical Mental Health Counselor Exam does not guarantee that Texas state licensure requirements have been satisfied.

~~[(c) Passing the National Counselor Exam or National Clinical Mental Health Counselor Exam does not guarantee Texas state licensure requirements have been satisfied.]~~

~~[(f) An applicant may appeal to the board but does not have the right to a formal hearing before the State Office of Administrative Hearings if his or her application for licensure is denied based on the applicant's failure to meet academic requirements.]~~

~~[SUBCHAPTER F EXPERIENCE REQUIREMENTS FOR LICENSURE]~~

§681.91 LPC Associate ~~[Intern]~~ License

(a) The Council ~~[board]~~ may issue an LPC Associate ~~[Intern]~~ license to an applicant who has:

(1) filed all application forms and paid all applicable fees;

(2) met all of the academic requirements for licensure;

(3) completed the required examinations with the requisite score as described in §681.72(a)(3) and (a)(4) of this title (relating to Required Application Materials);

(4) entered into a supervisory agreement with a Licensed Professional Counselor Supervisor (LPC-S); and

(5) not completed the supervised experience described in §681.92 of this title (relating to Experience Requirements) ~~[(Internship)]~~.

(b) An LPC Associate ~~[Intern]~~ must comply with all provisions of the Act and Council ~~[board]~~ rules ~~[in this chapter]~~.

(c) To practice counseling in Texas, a person must obtain an LPC Associate ~~[Intern]~~ license before the person begins an internship or continues an internship. Hours obtained by an unlicensed person in any setting will not count toward the supervised experience requirements.

(d) An LPC Associate ~~[Intern]~~ may practice counseling only as part of his or her internship and only under the supervision of a Licensed Professional Counselor Supervisor (LPC-S). The LPC Associate ~~[Intern]~~ may not own an independent professional counseling practice.

(e) An LPC Associate ~~[Intern]~~ may have no more than two (2) Council-approved ~~[board-approved]~~ LPC supervisors at any given time.

(f) An LPC Associate ~~[Intern]~~ must maintain their LPC Associate ~~[Intern]~~ license during his or her supervised experience.

(g) An LPC Associate ~~[Intern]~~ license will expire 60 months from the date of issuance.

(h) An LPC Associate ~~[Intern]~~ who does not complete the required supervised experience hours during the 60-month time period must reapply for licensure.

(i) An LPC Associate ~~[Intern]~~ must continue to be supervised after completion of the 3,000 hours of supervised experience and until the LPC Associate ~~[Intern]~~ receives his or her LPC license. Supervision is complete upon the LPC Associate ~~[Intern]~~ receiving the LPC license.

(j) An LPC Associate ~~[Intern]~~ does not own client records; they are the property of the agency, ~~[or]~~ organization, or LPC-S.

(k) An LPC Associate ~~[Intern]~~ must not employ a supervisor but may compensate the supervisor for time spent in supervision if the supervision is not a part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

(l) An LPC Associate ~~[Intern]~~ must not accept direct payment for services from a client.

(m) All billing documents for services provided by an LPC Associate ~~[Intern]~~ must reflect the LPC Associate ~~[Intern]~~ holds an LPC Associate ~~[Intern]~~ license and is under supervision.

(n) The LPC Associate ~~[Intern]~~ must not represent himself or herself as an independent practitioner. The LPC Associate's ~~[Intern's]~~ name must be followed by the name of the supervisor ~~[in the same type size and font]~~ on all advertisements, billings, and announcements, including but not limited to websites and intake documents.

§681.92 Experience Requirements ~~[(Internship)]~~

(a) All applicants for LPC licensure must complete supervised experience acceptable to the Council ~~[board]~~ of 3,000 clock-hours under a Council-approved ~~[board-approved]~~ supervisor. The Council may consider 80% of supervised experience as substantially equivalent to meet Texas requirements for applicants who have, held full LPC in good standing for at least two (2) years issued by a United States jurisdiction that requires less than 3,000 hours of supervised experience. LPC licensure must have been active for at least two years prior to application.

(1) All internships physically occurring in Texas must be completed under the supervision of a Council-approved ~~[board-approved]~~ supervisor.

(2) For all internships physically completed in a jurisdiction other than Texas, the supervisor must be a person licensed or certified by that jurisdiction in a profession that provides counseling and who has the academic training and experience to supervise the counseling services offered by the Associate ~~{Intern}~~. The applicant must provide documentation acceptable to the Council ~~{board}~~ regarding the supervisor's qualifications.

(b) The supervised experience must include at least 1,500 clock-hours of direct client counseling contact. Only actual time spent counseling may be counted.

(c) An LPC Associate ~~{Intern}~~ may not complete the required 3,000 clock-hours of supervised experience in less than 18 months.

(d) The experience must consist primarily of the provision of direct counseling services within a professional relationship to clients by using a combination of mental health and human development principles, methods, and techniques to achieve the mental, emotional, physical, social, moral, educational, spiritual, or career-related development and adjustment of the client throughout the client's life.

(e) The LPC Associate ~~{Intern}~~ must receive direct supervision consisting of a minimum of four (4) hours per month of supervision in individual (up to two ~~Interns~~ Associates) or group (three or more) settings while the Associate ~~{Intern}~~ is engaged in counseling unless an extended leave of one month or more is approved in writing by the Council ~~{board}~~ approved supervisor. No more than 50% of the total hours of supervision may be received in group supervision.

(f) An LPC Associate ~~{Intern}~~ may have up to two (2) supervisors at one time.

§681.93 Supervisor Requirements

(a) A supervisor must keep a written record of each supervisory session in the file for the LPC Associate ~~{Intern}~~.

(1) The supervisory written record must contain:

(A) a signed and dated copy of the Council's ~~{board's}~~ supervisory agreement form for each of the LPC Associate's ~~{Intern's}~~ supervisors;

(B) a copy of the LPC Associate's ~~{Intern's}~~ wall certificate noting the dates of issuance and expiration;

(C) fees and record of payment;

(D) the date of each supervisory session;

(E) a record of an LPC Associate's ~~{Intern's}~~ leave of one month or more, documenting the supervisor's approval and signed by both the LPC Associate ~~{Intern}~~ and the supervisor; and

(F) a record of any concerns the supervisor discussed with the LPC Associate ~~{Intern}~~, including a written remediation plan as prescribed in subsection (e) of this section.

(2) The supervisor must provide a copy of all records to the LPC Associate ~~{Intern}~~ upon request.

(b) The full professional responsibility for the counseling activities of the LPC Associate ~~{Intern}~~ rests with the LPC Associate's ~~{Intern's}~~ ~~{board}~~ approved supervisor(s). If the LPC Associate ~~{Intern}~~ receives disciplinary action by the Council ~~{board}~~, the supervisor may also be subject to disciplinary action.

- (1) Supervisors must review all provisions of the Act and Council ~~{board}~~ rules in this chapter during supervision.
- (2) The supervisor must ensure the LPC Associate ~~{Intern}~~ is aware of and adheres to all provisions of the Act and Council ~~{board}~~ rules ~~{in this chapter}~~.
- (c) The supervisor must avoid any relationship that impairs the supervisor's objective, professional judgment.
 - (1) The supervisor may not be related to the LPC Associate ~~{Intern}~~ within the second degree of affinity or within the third degree of consanguinity.
 - (2) The supervisor may not be an employee of his or her LPC Associate ~~{Intern}~~.
- (d) The supervisor must submit to the Council ~~{board}~~ accurate documentation of the LPC Associate's ~~{Intern's}~~ supervised experience within 30 days of the end of supervision or the completion of the LPC Associate's ~~{Intern's}~~ required hours, whichever comes first.
- (e) If a supervisor determines the LPC Associate ~~{Intern}~~ may not have the counseling skills or competence to practice professional counseling under an LPC license, the supervisor will develop and implement a written plan for remediation of the LPC Associate ~~{Intern}~~, which must be reviewed and signed by the LPC Associate ~~{Intern}~~ and maintained as part of the LPC Associate's ~~{Intern's}~~ file.
- (f) The supervisor must ensure the supervised counseling experience of the LPC Associate ~~{Intern}~~ were earned:
 - (1) after the LPC Associate ~~{Intern}~~ license was issued; and
 - (2) in not less than 18 months of supervised counseling experience.
- (g) A supervisor whose license has expired is no longer an approved supervisor and:
 - (1) must immediately inform all LPC Associates ~~{Interns}~~ under his or her supervision and assist the LPC Associates ~~{Interns}~~ in finding alternate supervisors; and
 - (2) must refund all supervisory fees for supervision after the expiration of the supervisor status.
 - (3) Hours accumulated under the person's supervision after the date of license expiration may not count as acceptable hours.
- (h) Upon execution of a Council ~~{board}~~ order for probated suspension, suspension, or revocation of the LPC license with supervisor status, the supervisor status is revoked. A licensee whose supervisor status is revoked:
 - (1) must immediately inform all LPC Associates ~~{Interns}~~ under his or her supervision and assist the LPC Associates ~~{Interns}~~ in finding alternate supervisors; and
 - (2) must refund all supervisory fees for supervision after the date the supervisor status is revoked; and
 - (3) hours accumulated under the person's supervision after the date of license expiration may not count as acceptable hours.
- (i) Supervision of an LPC Associate ~~{Intern}~~ without having Council ~~{board}~~ approved supervisor status is grounds for disciplinary action.

~~[SUBCHAPTER G LICENSURE EXAMINATIONS]~~

§681.101 Examinations

(a) Each applicant for licensure is required to take and pass the National Counselor Exam or the National Clinical Mental Health Counselor Exam and complete the jurisprudence exam prior to application.

(b) The development or administration of the examination may be contracted to a national testing company.

(c) The National Counselor Examination and the National Clinical Mental Health Counselor Exam are administered at testing centers located in various cities throughout the state. The jurisprudence exam is available online at the Council's ~~{board's}~~ website.

~~[(d) The examination fees must be paid to the testing company administering the exams.]~~

~~[(e) Applicants seeking accommodations for the licensure examination under the Americans with Disabilities Act must inform the testing company of any special accommodations needed in advance and in writing. Disability accommodation requests must be accompanied by verification of the disability from a professional who has diagnosed or can attest to the disability and who recommends accommodation.]~~

~~[§681.102 Notice of Results]~~

~~[(a) The results of electronically administered licensure examinations must be provided to the applicant at the testing center upon completion of the examination.]~~

~~[(b) Non-electronically administered examinations may be requested as an Americans with Disabilities Act accommodation; however, grading will not be immediately available upon completion of the examination.]~~

~~[§681.103 Recexamination]~~

~~[(a) A person who fails the licensure examination may schedule the next examination no sooner than 90 days after the prior exam.]~~

~~[(b) A person who fails the exam three times will be required to either wait until two years have elapsed from the date of the last examination or until the person has completed nine (9) graduate semester hours in the applicant's weakest portions of the examination. The hours must be counseling or counseling-related courses with a grade of "B" or better. Research and practicum courses will not be accepted as meeting the nine (9) graduate semester hours.]~~

~~[SUBCHAPTER H LICENSING]~~

~~[§681.111 Issuance of Licenses]~~

~~[(a) The board will issue a license to each applicant who has satisfactorily fulfilled all requirements for licensure.]~~

~~[(b) All licenses will bear the signature of the board chair.]~~

~~[(c) Any license certificate or renewal card issued by the board remains the property of the board and must be surrendered to the board on demand.]~~

~~[(d) The board will replace a lost, damaged, or destroyed license certificate or renewal cards upon a written request from the licensee and payment of all applicable fees.]~~

~~[(e) Upon the written request and payment of all applicable fees, the board will provide a licensee with a duplicate for a second place of practice designated in a licensee's file.]~~

~~[(f) Only degrees earned in counseling or a counseling-related field from an accredited school may appear on the license certificate.]~~

~~§681.112 Provisional Licensing~~

~~[(a) The board may issue a provisional license to a person who:]~~

~~[(1) submits an application and all applicable fees;]~~

~~[(2) is currently licensed in good standing as a counselor or art therapist in another United States jurisdiction that has licensing requirements substantially equivalent to the regular licensing requirements of the Act and submits documentation of such licensure including a letter of good standing and a copy of the licensure file from the other United States jurisdiction or from the National Credentials Registry;]~~

~~[(3) has passed the National Counselor Exam or the National Clinical Mental Health Counselor Exam and completed the jurisprudence exam; and]~~

~~[(4) has a supervisory agreement form].~~

~~[(b) A provisional license is valid until the date the board issues an LPC license or denies the provisional licensee's application for a license, whichever occurs first.]~~

~~[(c) The board will issue an LPC license to the holder of a provisional license if the board verifies the provisional licensee has the academic and experience requirements for an LPC license].~~

~~§681.113 Surrender of License~~

~~[(a) A licensee may voluntarily offer to surrender his or her license for any reason.]~~

~~[(b) The license may be delivered to the board office by hand or certified mail.]~~

~~[(c) If there is no complaint pending, the board office may accept the surrender and void the license.]~~

~~[(d) If a complaint is pending, the procedures for acceptance of a license surrender are set out in §681.168 of this title (relating to Surrender of License when Complaint is Pending).]~~

~~[(e) A license which has been surrendered and accepted by the board may not be reinstated; however, a person may apply for a new license in accordance with the Act and this chapter.]~~

§681.114 Licensing of Military Service Members, Military Veterans, and Military Spouses

~~[(a) This section sets out initial licensing and license renewal procedures specific to military service members, military veterans, and military spouses pursuant to Texas Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses) as well as provisions concerning Inactive Status for Military Service Members. For purposes of this section:]~~

~~[(1) “Active duty” means current full-time military service in the armed forces of the United States or active-duty military service as a member of the Texas military forces, as defined by Texas Government Code §437.001 or similar military service of another state.]~~

~~[(2) “Armed forces of the United States” means the army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.]~~

~~[(3) “Designated representative” is a person authorized in writing by the military service member to act on behalf of the military service member. A copy of the written authorization must be provided to the board with the request for inactive status.]~~

~~[(4) “License” means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business.]~~

~~[(5) “Military service member” means a person who is on active duty.]~~

~~[(6) “Military spouse” means a person who is married to a military service member.]~~

~~[(7) “Military veteran” means a person who has served on active duty and who was discharged or released from active duty.]~~

~~[(b) An applicant must provide documentation acceptable to the board of the applicant's status as a military service member, military veteran, or military spouse. Acceptable documentation includes, but is not limited to, copies of official documents such as military service orders, marriage licenses, and military discharge records. The application of a person who fails to provide documentation of his or her status must not be processed under this section.]~~

~~[(c) Upon request, an applicant must provide proof specified by, or otherwise acceptable to, the board of current licensure issued by another jurisdiction. Upon request, the applicant must provide proof that the licensing requirements of that jurisdiction are substantially equivalent to the licensing requirements of this state.]~~

~~[(d) The board's authority to require an applicant to undergo a criminal history background check, and the timeframes associated with that process, are not affected by the provisions of this section.]~~

(a) An applicant applying for licensure under this section must comply with Council rule §882.60.

(b) Licensing requirements that either match or exceed Texas requirements are considered substantially equivalent.

~~[(c)]~~~~[(e)]~~ For an application ~~[for a license]~~ submitted by a verified military service member or military veteran, the applicant must receive credit towards any licensing requirements, except an examination requirement, for verified military service, training, or education that the Council ~~[board]~~ determines is relevant to the licensing requirements, unless he or she holds a restricted license issued by another jurisdiction or has a criminal history for which adverse licensure action is authorized by law.

~~[(f)]~~ An applicant who is a military service member, military veteran, or military spouse holding a current, unrestricted license issued by another jurisdiction that has substantially equivalent requirements to the requirements for licensure in this state must complete and submit an application form and a supplemental application form for military service member, veteran, or military spouse. As soon as practicable after a complete application under this subsection is filed, the board will process and issue a license to an applicant who holds such a license, satisfies the application and supplemental application requirements, and meets the requisite substantial equivalency requirements of the other state, if the applicant has no unresolved allegations or criminal background relevant to the license, and there are no other facts or circumstances providing grounds for denial of the license. The license will have the same term as the applicable license type issued under the Act and this subchapter. Renewal of the license will be in accordance with subsection (i) of this section.]

~~[(g)]~~ An applicant who is a military service member, military veteran, or military spouse who held a license under the Act and this subchapter within the five years preceding the application date, and without restriction, must complete and submit an application form and a supplemental application form for military service member, veteran, or military spouse. As soon as practicable after a complete application under this subsection is filed, the board will process and issue a license under the Act and this subchapter to an applicant who held such a license and who satisfies the application and supplemental application requirements, if the applicant has no unresolved allegations or criminal background relevant to the license, and there are no other facts or circumstances providing grounds for denial of the license. The license will have the same term as a license for the same license type otherwise issued under the Act or this subchapter. Renewal of the license will be in accordance with subsection (i) of this section.]

~~[(h)]~~ In accordance with Texas Occupations Code §55.004(b), the board or its designee may waive any prerequisite to obtaining a license after reviewing the credentials of an applicant who is eligible to apply under subsection (f) or (g) of this section.]

~~[(i)]~~ If the board issues an initial license pursuant to subsection (f) or (g) of this section to an applicant who is a military service member, military veteran, or military spouse, the board will assess whether the applicant has met all licensing requirements of this state. The board will provide this assessment in writing, which may be by electronic means, to the applicant at the time the license is issued. If the applicant has not met all licensing requirements of this state, the applicant must provide proof of completion at the time of the first application for license renewal. A license under this subchapter will not be renewed, will be allowed to expire, and will become ineffective if the applicant does not provide proof of completion at the time of the first application for licensure renewal.]

~~[(j) Notwithstanding any other law, the board will waive the registration application fees paid to the state for an applicant described in paragraph (1) or (2) of this subsection. An applicant must provide any proof requested by the board that the applicant is:]~~

~~[(1) A military service member or military veteran whose military service, training, or education substantially meets all applicable requirements for the license; or]~~

~~[(2) A military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.]~~

~~[(k) For license renewal, the board will exempt an individual who holds a license issued by the board from any increased fee or other penalty imposed for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the board that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.]~~

~~[(l) A military service member who holds a license is entitled to two years of additional time beyond the expiration date of the license to complete:]~~

~~[(1) any continuing education requirements; and]~~

~~[(2) any other requirement related to the renewal of the military service member's license.]~~

~~[(m) A military service member or his or her designated representative may submit a request for inactive status in writing to the board.]~~

~~[(1) A written request for inactive status must be received by the board prior to expiration of the license or within one year from the expiration date and must include:]~~

~~[(A) a copy of the official transfer orders of the military service member or other official military documentation; and]~~

~~[(B) a current address and telephone number for the military service member or the military service member's designated representative.]~~

~~[(2) The payment of the inactive status fee is waived for a military service member under this subsection.]~~

~~[SUBCHAPTER I REGULAR LICENSE RENEWAL; INACTIVE AND RETIREMENT STATUS]~~

~~[\$681.121 General Renewal Requirements]~~

~~[(a) The license expiration date is the last day of the licensee's birth month. The initial expiration date is 12 months after the first birth month following the issuance of the license.]~~

~~[(b) Except for the initial expiration date, an LPC license must be renewed every two years.]~~

~~[(c) A licensee who holds an LPC license must have fulfilled all continuing education requirements prescribed by board rule in order to renew a license.]~~

~~[(d) A person whose license has expired for more than one year must return his or her license certificate to the board.]~~

~~[(e) A person whose license has expired must not practice professional counseling or advertise counseling treatment interventions, unless exempted by the Act.]~~

~~[(f) The deadlines established for renewals, late renewals, and license renewal penalty fees in this subchapter are based on the postmark date of the documentation submitted by the licensee.]~~

~~[(g) The board will deny renewal in accordance with Texas Education Code, §57.491, relating to defaults on guaranteed student loans.]~~

~~[\$681.122 [does not exist]]~~

~~[\$681.123 License Renewal]~~

~~[(a) At least 30 days prior to the expiration of an LPC license, the board will send to the licensee at the last known address notice that includes the expiration date of the license and instructions for renewing the license.]~~

~~[(b) Failure to receive notice does not relieve the licensee from the responsibility to timely renew.]~~

~~[(c) The board will not renew a license until it receives the renewal fee and the completed board renewal form including criminal history information, changes of address, continuing education information and other required information.]~~

~~[(d) The board will issue a renewal card to a licensee who has met all requirements for renewal. The licensee must display the renewal card with the license.]~~

~~[(e) A license for which a timely request for renewal has been submitted does not expire until the renewal license has been issued or until the renewal application has been denied.]~~

~~[\$681.124 Late Renewal]~~

~~[(a) A person who renews a license after the expiration date but within 90 days after the expiration date must pay the 2-year renewal fee plus the appropriate late renewal fee.]~~

~~[(b) A person who renews a license 91 days to no more than one year after the expiration date must pay the 2-year renewal fee plus the appropriate late renewal fee.]~~

~~[(c) If a person did not have the required continuing education at the time of expiration of the license, the person must file evidence of completion of the required continuing education before the license can be renewed. A license is considered expired until all requirements for renewal are met.]~~

~~[(d) The board may renew without reexamination an expired license of a person who was licensed in this state, moved to another state, and is currently licensed and has been in practice in the other state for the two years preceding the date the person applied for renewal. The person must pay to the board a fee that is equal to the amount of the license examination fee.]~~

~~[(e) On or after one year from the expiration date, a person must reapply by submitting a new application, paying the required fees, and meeting the current requirements for licensure including passing all required examinations.]~~

~~§681.125 Inactive Status~~

~~[(a) A licensee may request their active license be placed on inactive status by submitting to the board the designated form and fee.]~~

~~[(b) A licensee cannot practice while the license is inactive.]~~

~~[(c) Board approved supervisory authority is relinquished upon moving the license to inactive status.]~~

~~[(d) Inactive licenses remain subject to disciplinary action by the board.]~~

~~[(e) No continuing education is required while a license is inactive.]~~

~~[(f) To return an inactive license to active status the licensee must submit:]~~

~~[(1) a reactivation form designated by the board;]~~

~~[(2) a reactivation fee as set forth in this chapter; and]~~

~~[(3) proof of completion of continuing education for the licensee's current two-year renewal period.]~~

~~[(g) Neither continuing education nor fees will be prorated.]~~

~~[(h) To regain board approved supervisory authority, the licensee must re-apply under current rules.]~~

~~§681.126 Retired Status~~

~~[(a) A licensee may request his or her license be placed on retired status by submitting a written request along with the license certificate.]~~

~~[(b) Once a licensee places his or her license on retired status, the individual may no longer practice professional counseling or refer to himself or herself as a professional counselor unless exempted by the Act. The individual will no longer be required to pay renewal fees or to obtain continuing education.]~~

~~[(c) A retired license cannot be renewed or reinstated. To practice professional counseling, the person must apply for a new license by meeting all requirements in effect at the time of the application, including passing all required examinations.]~~

~~[(d) A request for retired status while a complaint is pending will be treated as a surrender of license under §681.168 of this title (relating to Surrender of License when Complaint is Pending).]~~

~~§681.127 [repealed, effective 7/16/2017]~~

~~SUBCHAPTER J CONTINUING EDUCATION REQUIREMENTS~~

§681.141 General Continuing Education Requirements

(a) The purpose of Council rules §§681.141-681.147 ~~[this subchapter]~~ is to establish the continuing education requirements for the renewal of an LPC license. These requirements are intended to maintain and improve the quality of professional counseling services provided to the

public and maintain licensee knowledge of current research, techniques, and practice; and provide resources which will improve skill and competence in professional counseling.

~~[(b) Continuing education requirements for renewal must be fulfilled during a 24-month period beginning on the first day of a licensee's renewal year and ending on the last day of the licensee's renewal year.]~~

(c) A licensee must complete 24 clock-hours of continuing education acceptable to the Council ~~[board]~~ during each 24-month period. A clock-hour is 60 minutes of attendance and participation in an acceptable continuing education experience. A licensee must complete:

(1) at least four hours of continuing education in ethics, two of which must be directly related to Texas LPC ethics, each renewal period. Completion of the jurisprudence examination will count as one hour of continuing education in Texas LPC ethics.~~[-; and]~~

~~[(2) successfully the jurisprudence exam each renewal period. Completion of the jurisprudence examination will count as one hour of continuing education in Texas LPC ethics.]~~

(d) A licensee holding the supervisor status must complete 6 additional hours of continuing education in supervision every 2 years.

§681.142 Acceptable Continuing Education

The continuing education must be related to counseling. ~~[To be acceptable for the purposes of license renewal or satisfaction of disciplinary stipulations, the education must be received from a continuing education provider that:]~~

(1) The licensee must ensure ~~[ensures]~~ the education provided is related to the practice of professional counseling.~~[-;]~~

(2) The licensee must ensure ~~[ensures]~~ the individual(s) presenting the information have the necessary experience and knowledge in the topic(s) presented.~~[-;]~~

(3) The presenter must verify ~~[verifies]~~ attendance of participants and provides participants with a letter or certificate of attendance displaying the licensee's name, topic covered, date course was taken, and hours of credit earned.~~[-; and]~~

(4) The presenter must provide ~~[provides]~~ participants a mechanism for evaluation of each continuing education activity.

§681.143 Activities Unacceptable as Continuing Education

The Council ~~[board]~~ will not give continuing education credit to a licensee for:

(1) education incidental to the regular professional activities of a counselor such as learning occurring from experience or research;

(2) organizational activity such as serving on committees or councils or as an officer in a professional organization;

(3) meetings and activities not related to the practice of professional counseling that are required as a part of one's job;

(4) teaching or consultation that is part of one's employment; and

(5) an experience that does not fit the types of acceptable continuing education in §681.141 ~~§681.142~~ of this title (relating to Acceptable Continuing Education).

~~§681.144 [repealed, effective 02/28/2019]~~

§681.145 Determination of Clock-hour Credits

(a) Programs which meet the criteria of §681.142 of this title (relating to Types of Acceptable Continuing Education) shall be credited on a one-for-one basis with one clock-hour of credit for each clock-hour spent in the continuing education activity.

(b) Teaching in programs not part of the licensee's employment which meet the Council's ~~board's~~ criteria as set out in §681.142 of this title will be credited on the basis of one clock-hour of credit for one clock-hour taught plus two clock-hours credit for preparation for each hour taught. No more than 9 hours of the 24 clock-hour continuing education requirement can be credited under this option. Credit may be granted for the same presentation only once during a two-year period.

(c) Completion of academic work with a passing grade in subject areas supporting the development of skills and competence in professional counseling at an accredited school will be credited on the basis of 15 clock-hours of credit for each semester hour or 10 clock-hours of credit for each quarter hour completed.

~~§681.146 Reporting of Continuing Education~~

~~[(a) The board will monitor a licensee's compliance with continuing education requirements by random audit. Licensees will be notified in writing if they have been selected for a continuing education audit. Individual supporting documents of participation in continuing education] activities are not to be submitted to the board unless a written Notice of Audit is received informing the licensee that he or she has been randomly selected for a document audit. Upon receipt of a Notice of Audit the licensee will be required to submit all appropriate documentation to substantiate compliance with the board's continuing education requirements within 15 working days of receipt of notice.~~

~~[(b) The licensee is responsible for maintaining continuing education records for a period of two years.]~~

~~[(c) An audit will be automatic for a licensee who was determined to be non-compliant during the immediately preceding audit.]~~

~~[(d) Appropriate continuing education supporting documentation include:]~~

~~[(1) program attended, certificate of attendance;]~~

~~[(2) teaching or consultation in approved programs, a letter on the sponsoring agency's letterhead giving name of program, location, dates, and subjects taught and giving total clock-hours of teaching or consultation;]~~

~~[(3) completion of academic work from accredited schools, evidence of course credit;]~~

~~[(4) official auditing of a graduate level course at an accredited school, a letter from the accredited school or professor which includes the actual number of clock hours attended.]~~

~~[(e) Failure to meet the continuing education requirement, provide documentation as requested by the board, or providing fraudulent documentation is a violation of board rules in this chapter and grounds for disciplinary action.]~~

§681.147 40-Clock-Hour Supervisor Training Course

The 40-clock-hour supervision training must comply with §681.142 of this title (relating to Acceptable Continuing Education) and:

(1) the course must be taught by a full LPC with supervisor status;

(2) all related coursework and assignments must be completed over a time period not to exceed 90 days; and

(3) the 40-clock-hour supervision training must include at least:

(A) three (3) clock-hours for defining and conceptualizing supervision and models of supervision;

(B) three (3) clock-hours for supervisory relationship and counselor development;

(C) twelve (12) clock-hours for supervision methods and techniques, covering roles (teacher, counselor, and consultant), focus (process, conceptualization, and personalization), group supervision, multi-cultural supervision (racial, ethnic, and gender issues), and evaluation methods;

(D) twelve (12) clock-hours covering roles for supervision and standards of practice; Subchapter B (relating to Rules of Practice [~~Authorized Counseling Methods and Practices~~]); Subchapter C (relating to Application and Licensing [~~Code of Ethics~~]); §681.91 of this title (relating to LPC Associate [~~Intern~~] License); §681.92 of this title (relating to Experience Requirements) [~~(Internship)~~]; §681.93 of this title (relating to Supervisor Requirements); other codes of ethics; and legal and professional issues; and

(E) three (3) clock-hours for executive and administrative tasks, covering supervision plan, supervision contract, time for supervision, record keeping, and reporting.

~~[SUBCHAPTER K COMPLAINTS AND VIOLATIONS]~~

~~[§681.161 Complaint Procedures]~~

~~[(a) A complaint must be submitted to the board office on a form prescribed by the board to be an eligible complaint for board action.]~~

~~[(b) Allegations not involving violations of §681.42 of this title (relating to Sexual Misconduct) must be filed within 5 years of the date of termination of professional services or within 5 years of a minor client's 18th birthday, whichever is later.]~~

~~[(c) The commission will send acknowledgement to the complainant upon receipt of an eligible complaint.]~~

~~[(d) Eligible complaints will be reviewed by the review team whose members are designated in board policy to determine if the board has jurisdiction over the complaint and to determine the nature of the allegations.]~~

~~[(1) Complaints outside of the jurisdiction of the board will be dismissed.]~~

~~[(2) Jurisdictional complaints will be reviewed by the team to determine if the complaint states an allegation which, if true, constitutes a violation of the Act or board rules in this chapter.]~~

~~[(A) Complaints that do not state a violation of the Act or board rules in this chapter will be dismissed.]~~

~~[(B) Complaints that state a violation of the Act or board rules in this chapter will be investigated by the commission.]~~

~~[(3) Complaints under the jurisdiction of another agency will be referred to that agency.]~~

~~[(e) Licensees will receive notice of an investigation in writing. Notice to a licensee is effective and service is complete when sent by certified or registered mail to the licensee's address of record at the time of the mailing.]~~

~~[(f) Following completion of the investigation, the commission will draft a report. This report will include a recommendation as to whether the investigation has produced sufficient evidence to establish by a preponderance of the evidence there was a violation of the Act or board rules in this chapter.]~~

~~[(g) The review team and counsel for the board will review the complaint's case file, including the investigation report and all evidence, to determine if there is sufficient evidence to demonstrate by a preponderance of the evidence a violation of the Act or board rules in this chapter occurred.]~~

~~[(1) A complaint for which the team and counsel determines the preponderance of the evidence indicates a violation of the Act or board rules in this chapter occurred will result in the commission issuing a Notice of Violation to the Respondent proposing disciplinary action based on the penalty matrix set by board policy and the Respondent will be given an opportunity to request an Informal Settlement Conference.]~~

~~[(2) A complaint for which staff determines the preponderance of the evidence indicates a violation of the Act or board rules in this chapter did not occur will be dismissed.]~~

~~[(h) At each board meeting, staff will provide the board with a list of complaints dismissed for lack of jurisdiction or lack of violation since the previous meeting of the board.]~~

~~§681.162 Disciplinary Action; Notices~~

~~[(a) The board may deny, revoke, temporarily suspend, or suspend a license, or may probate disciplinary action, or may issue a reprimand or impose an administrative penalty to a person who:]~~

~~[(1) violates a provision of the Act;]~~

~~[(2) violates a rule adopted by the board;]~~

~~[(3) is legally committed to an institution because of mental incompetence from any cause;]~~

~~[(4) offers to pay or agrees to accept any remuneration, directly or indirectly, to or from any person or entity for securing or soliciting a client or patronage; or]~~

~~[(5) is issued a public letter of reprimand, is assessed a civil penalty by a court, or has an administrative penalty imposed by the attorney general's office under Texas Code of Criminal Procedure Chapter 56.]~~

~~[(b) If denial based on subsection (a) of this section, revocation, or suspension of a license is proposed, the board will give written notice of the basis for the proposal and state that the licensee or applicant must request, in writing, a formal hearing within 15 working days of receipt of the notice, or the right to a hearing will be waived and the license will be denied, revoked, or suspended.]~~

~~[(e) Receipt of a notice under §681.161(g)(1) of this title (relating to Complaint Procedures) is presumed to occur on the tenth working day after the notice is mailed to the last address known to the board unless another date is reported by the United States Postal Service.]~~

~~[(d) Cease and Desist Order. If it appears to the board that a person who is not licensed under the Act is violating the Act, a rule adopted under the Act, or another state statute or rule relating to the practice of counseling, the board, after notice and an opportunity for a hearing may issue a cease and desist order prohibiting the person from engaging in the activity. A violation of an order under this subsection constitutes grounds for the imposition of an administrative penalty by the board.]~~

~~[§681.163 [does not exist]]~~

§681.164 Licensing of Persons with Criminal Convictions

~~[(a) This section establishes guidelines and criteria for the eligibility of persons with criminal convictions to obtain and retain licenses as professional counselors.]~~

~~[(b) The board will consider the criminal conviction of a licensee or applicant as possible grounds for disciplinary action or application denial.]~~

~~[(c) The board may suspend or revoke an existing license, disqualify a person from receiving a license, or deny a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a licensee or if the crime involves moral turpitude which are those crimes including but not limited to dishonesty, fraud, deceit, misrepresentation, deliberate violence, or that reflect adversely on a licensee's honesty, trustworthiness, or fitness to practice under the scope of the person's license. In considering whether a criminal conviction directly relates to the profession of counseling, the board will consider but not limited to:]~~

~~[(1) the nature and seriousness of the crime;]~~

~~[(2) the relationship of the crime to the purposes for requiring a license to practice counseling;]~~

~~[(3) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and]~~

~~[(4) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of a counselor. In making this determination, the board will apply the criteria outlined in Texas Occupations Code, §53.023 (relating to Additional Factors).]~~

~~(a)~~[(d)] The following felonies and misdemeanors directly relate to the duties and responsibilities of a licensee:

(1) the misdemeanor of knowingly or intentionally practicing counseling without a license;

~~[(2) an offense involving moral turpitude;]~~

~~(2)~~[(3)] ~~[the misdemeanor of]~~ failing to report child abuse or neglect;

~~(3)~~[(4)] a criminal act ~~[misdemeanor]~~ involving deceptive business practices;

~~(4)~~[(5)] the offense of assault or sexual assault;

~~(5)~~[(6)] the felony offense of fraud; and

~~[(7) a misdemeanor and/or a felony offense under various titles of the Texas Penal Code:]~~

~~[(A) concerning Title 5 which relates to offenses against the person;]~~

~~[(B) concerning Title 7 which relates to offenses against property;]~~

~~[(C) concerning Title 8 which relates to offenses against public administration;]~~

~~[(D) concerning Title 9 which relates to offenses against public order and decency;]~~

~~[(E) concerning Title 10 which relates to offenses against public health, safety, and morals; and]~~

~~[(F) concerning Title 4 which relates to offenses of attempting or conspiring to commit any of the offenses in subparagraphs (A) – (E) of this paragraph; or]~~

(6) offenses listed in Article 42A.054 of the Code of Criminal Procedure;

(7) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;

(8) any criminal violation of the Licensed Professional Counselors Act;

(9) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;

(10) any criminal violation of Chapter 32, Subchapter B (Forgery) of the Penal Code;

(11) any criminal violation of Sections 32.42 (Deceptive Business Practices), 32.43 (Commercial Bribery), 32.45 (Misapplication of Fiduciary Property), 32.46 (Securing Execution of Document by Deception), 32.50 (Deceptive Preparation and Marketing of Academic Product), 32.51 (Fraudulent Use or Possession of Identifying Information), 32.52 (Fraudulent, Substandard, or Fictitious Degree), or 32.53 (Exploitation of Child, Elderly or Disabled Individual) of the Penal Code;

(12) any criminal violation of Chapter 37 (Perjury and Other Falsification) of the Penal Code;

(13) any offense involving the failure to report abuse;

(14) any criminal violation of Section 38.12 (Barratry and Solicitation of Professional Employment) of the Penal Code;

(15) any criminal violation involving a federal health care program, including 42 USC Section 1320a-7b (Criminal penalties for acts involving Federal health care programs);

(16) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of counseling;

(17) any attempt, solicitation, or conspiracy to commit an offense listed herein;

(18) any criminal violation of section 22.041 (abandoning or endangering a child);

(19) any criminal violation of section 21.15 (invasive visual recording);

(20) any criminal violation of section 21.08 (indecent exposure);

(21) any criminal violation of section 22.02 (aggravated assault);

(22) any criminal violation of section 25.04 (enticing a child);

(23) any criminal violation of section 43.26 (possession of child pornography);

(24) any criminal violation of section 20.03 (kidnapping); and

(25) any criminal violation of chapter 19 (criminal homicide).

~~[(8) any other misdemeanor or felony directly relating to the duties and responsibilities of a licensee.]~~

~~[(c) Procedures for disciplinary action or application denial against persons with criminal convictions:]~~

~~[(1) The board's executive director will give written notice to the person the board intends to take disciplinary action or deny the application after a hearing in accordance with the provisions of the APA and the board's hearing procedures in Subchapter L of this chapter (relating to Formal Hearings).]~~

~~[(2) If the board takes disciplinary action or denies an application under these sections, the executive director will give the person written notice of the reasons for the decisions.]~~

~~[\$681.165 Suspension, Emergency Suspension, Revocation, or Denial]~~

~~[(a) If the board suspends a license, the suspension remains in effect for the period of time stated in the order or until the board determines that the reason for the suspension no longer exists.]~~

~~[(b) If a suspension overlaps a license renewal date, the person suspended must comply with the renewal procedures in this chapter; however, the suspension remains in effect pursuant to subsection (a) of this section.]~~

~~[(e) Upon the revocation, suspension or non-renewal of a license, a licensee must return his or her license certificate and all existing renewal cards to the executive director.]~~

~~[(d) The board or the complaints committee of the board may suspend a license on an emergency basis.]~~

~~[(1) The license may be suspended without prior notice to the licensee and without a prior hearing.]~~

~~[(2) In order to suspend a license on an emergency basis, the board or complaints committee must determine whether continued practice by a license holder would constitute a continuing and imminent threat to the public welfare.]~~

~~[(3) This determination will be made from the evidence or information presented to the board or complaints committee.]~~

~~[(4) The board or complaints committee will issue an order suspending the license. The order will be effective upon delivery to the licensee or at a later date specified in the order.]~~

~~[(5) Proceedings for a formal hearing under Subchapter L of this chapter must be initiated prior to, or simultaneously on, the effective date of the emergency suspension.]~~

~~[(A) The APA to a hearing under this subsection.]~~

~~[(B) If there is a conflict between the requirement of the APA and the requirements of the Act, §503.403, the Act governs.]~~

~~[(6) A preliminary hearing will be held not later than the 30th day after the effective date of the emergency suspension to determine if probable cause exists to find a continuing and imminent threat to the public welfare still exists. The State Office of Administrative Hearings is hereby authorized to determine if probable cause exists.]~~

~~[(7) A final hearing will be held not later than the 61st day after the effective date of the emergency suspension.]~~

~~[(A) The purpose of the hearing is to determine whether continued practice of the licensee would constitute a continuing and imminent threat to the public welfare.]~~

~~[(B) In determining whether there is a continuing and imminent threat to the public welfare, the board may consider whether a violation of state law or this chapter exists.]~~

~~[(C) If such a threat exists, the board will enter an order suspending the license of the licensee.]~~

~~[(D) A suspension remains in effect in accordance with subsection (a) of this section.]~~

~~[(8) The time periods for holding a preliminary hearing or a final hearing will toll during the period of time in which the licensee makes discovery requests or requests a continuance. The time periods may also be waived by mutual agreement of the licensee and the authorized representative of the board. If a preliminary hearing or final hearing is not held in accordance with the time periods stated in this subsection (unless tolled or waived), the emergency suspension becomes null and void upon the date on which the hearing was required to be held under the Act, §503.403.]~~

~~§681.166 Informal Disposition~~

~~[(a) Informal disposition of any complaint or contested case involving a licensee or an applicant for licensure may be made through an informal conference held to determine whether the matters in controversy can be resolved without further proceedings.]~~

~~[(b) The decision to hold a conference is within the discretion of the executive director or a member of the complaints committee.]~~

~~[(c) An informal conference is voluntary and not a prerequisite to a formal hearing.]~~

~~[(d) The executive director will establish the time, date and place of the informal conference, and provide written notice to the licensee or applicant. Notice will be provided no less than 10 working days prior to the date of the informal conference by certified mail, return receipt requested to the last known address of the licensee or applicant. The licensee or applicant may waive the 10-day notice requirement.]~~

~~[(e) The notice will inform the licensee or applicant of the nature of the alleged violation or the reason for application denial; that the licensee may be represented by legal counsel; that the licensee or applicant may offer the testimony of witnesses and present other evidence as may be appropriate within time limits set by the executive director; that the board's legal counsel will be present; that the licensee's or applicant's attendance and participation is voluntary; and that the informal conference shall be canceled if the licensee or applicant notifies the executive director that he or she or his or her legal counsel will not attend. A copy of the board's rules concerning informal disposition will be enclosed with the notice of the informal conference.]~~

~~[(f) At least one member of the complaints committee will be present at an informal conference.]~~

~~[(g) The conference will be informal and will not follow the procedures established in this chapter for contested cases and formal hearings.]~~

~~[(h) The licensee, the licensee's attorney, the board's attorney, the executive director and the complaints committee member may question witnesses, make relevant statements, present statements of persons not in attendance, and present such other evidence as may be appropriate.]~~

~~[(i) The board's legal counsel will attend each informal conference. The complaints committee member or executive director may call upon the attorney at any time for assistance in the informal conference.]~~

~~[(j) The licensee will be afforded the opportunity to make statements that are material and relevant.]~~

~~[(k) The complaints committee member or the executive director may exclude anyone from all or part of the informal conference.]~~

~~[(l) Any written statement submitted by the complainant will be reviewed at the conference.]~~

~~[(m) At the conclusion of the informal conference, the complaints committee member or the executive director may make recommendations for informal disposition of the complaint or contested case. The recommendations may include any disciplinary action authorized by the Act or this chapter. The complaints committee member may also conclude that the board lacks jurisdiction; conclude that a violation of the Act or this chapter has not been established; order that the investigation be closed; or refer the matter for further investigation.]~~

~~[(n) The licensee or applicant may either accept or reject the recommendations at the informal conference. If the recommendations are accepted, an agreed order will be prepared by the board office or the board's legal counsel and forwarded to the licensee or applicant. The order may contain agreed findings of fact and conclusions of law. The licensee or applicant must execute the order and return the signed order to the board office within 10 working days of his or her receipt of the order. If the licensee or applicant fails to return the signed order within the stated time period, the inaction constitutes rejection of the recommendations.]~~

~~[(o) If the licensee or applicant signs and accepts the proposed recommendations, the agreed order will be submitted to the complaints committee and the board for approval. Placement of the agreed order on the committee and board agendas will constitute only a recommendation for approval by the board.]~~

~~[(p) The identity of the licensee or applicant will not be made available to the board until after the board has reviewed and accepted the agreed order unless the licensee or applicant chooses to attend the board meeting. The licensee or applicant will be notified of the date, time, and place of the board meeting at which the proposed agreed order will be considered. Attendance by the licensee or applicant is voluntary.]~~

~~[(q) Upon an affirmative majority vote, the board will enter an agreed order approving the accepted recommendations. The board may not change the terms of a proposed order but may only approve or disapprove an agreed order unless the licensee or applicant is present at the board meeting and agrees to other terms proposed by the board.]~~

~~[(r) If the board does not approve a proposed agreed order, the licensee or applicant will be so informed. The matter will be referred to the executive director for other appropriate action.]~~

~~[(s) A proposed agreed order is not effective until the board has approved the agreed order and the order is signed by the board chair.]~~

~~[(t) A licensee's opportunity for an informal conference under this section will satisfy the requirement of the APA §2001.054(c).]~~

~~[(u) If a licensee who has requested an informal conference fails to appear at the conference and fails to provide notice of the licensee's inability to attend the conference at least 24 hours in advance of the time the conference is scheduled, such action may constitute a withdrawal of the request for a formal hearing.]~~

~~[(v) Refund Order.]~~

~~[(1) The board may order a license holder to pay a refund to a client or other payer as provided in an agreement resulting from an informal settlement conference instead of, or in addition, to imposing an administrative penalty under this chapter.]~~

~~[(2) The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the client or other payer paid to the license holder for a service regulated by this chapter. The board may not require payment of other damages or estimate harm in a refund order.]~~

[§681.167 Waiver of Right to Hearing]

~~[(a) Failure to respond to a notice from the board or if a licensee or applicant agrees with the action proposed in the notice, the board may enter an order taking disciplinary action or an order of application denial as described in the written notice to the licensee or applicant.]~~

~~[(b) Upon an affirmative majority vote, the board will enter an order imposing appropriate disciplinary action or an order of application denial.]~~

~~§681.168 Surrender of License when Complaint is Pending~~

~~[(a) When a licensee has offered the surrender of his or her license after a complaint has been filed, alleging violations of the Act or this chapter, the board will consider whether to accept the surrender of the license.]~~

~~[(b) Surrender of a license without acceptance thereof by the board or a licensee's failure to renew the license does not deprive the board of jurisdiction against the licensee under the Act, this chapter, or other applicable statute.]~~

~~[(c) When the board has accepted a license surrender after a complaint has been filed, the license surrender is deemed to be the result of a formal disciplinary action and a board order will be prepared accepting the license surrender.]~~

~~[(d) Upon surrender of a license during the course of the investigation, the surrender is considered a final disciplinary action and may not be reinstated; however a person may apply for a new license in accordance with the Act and this chapter.]~~

~~§681.169 Suspension of License for Failure to Pay Child Support or Non-Compliance with Child Custody Order~~

~~[(a) On receipt of a final court or attorney general's order suspending a license due to failure to pay child support or for failure to comply with the terms of a court order providing for the possession of or access to a child, the executive director will immediately determine if the board has issued a license to the obligator named in the order, and, if a license has been issued:]~~

~~[(1) record the suspension of the license in the board's records;]~~

~~[(2) report the suspension as appropriate; and]~~

~~[(3) demand surrender of the suspended license.]~~

~~[(b) The board will implement the terms of a final court or attorney general's order suspending a license without additional review or hearing. The board will provide notice as appropriate to the licensee or to others concerned with the license.]~~

~~[(c) The board may not modify, remand, reverse, vacate, or stay a court or attorney general's order suspending a license issued under the Texas Family Code Chapter 232.]~~

~~[(d) A licensee who is the subject of a final court or attorney general's order suspending his or her license is not entitled to a refund for any fee paid to the board.]~~

~~[(e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section must comply with the normal renewal procedures in the Act and this chapter; however, the license will not be renewed until subsections (g) and (h) of this section are met.]~~

~~[(f) An individual who continues to engage in the practice of counseling or continues to use the titles "Licensed Professional Counselor," "Licensed Counselor," "Licensed Professional Counselor—Art Therapist," "Art Therapist" or the initials "L.P.C.," "L.P.C. A.T.," or "A.T." after the issuance of a court or attorney general's order suspending the license is liable for the same civil and criminal penalties provided for engaging in the prohibited activity without a license or while a license is suspended as any other license holder of the board.]~~

~~[(g) On receipt of a court or attorney general's order vacating or staying an order suspending a license, the executive director will promptly issue the suspended license to the individual if the individual is otherwise qualified for the license.]~~

~~[(h) The individual must pay a reinstatement fee in an amount equal to the annual renewal fee set out in §681.14 of this title (relating to Fees) prior to issuance of the license under subsection (g) of this section.]~~

~~[(i) In accordance with Texas Family Code §232.0135, the board will deny the license renewal application of a license holder who has failed to pay child support or failed to comply with the terms of an order providing for the possession of or access to a child.]~~

~~§681.170 Monitoring of Licensees~~

~~[(a) The executive director will maintain a complaint tracking system.]~~

~~[(b) A licensee that has had disciplinary action taken against his or her license must submit regularly scheduled reports to the executive director if required by the board.]~~

~~[(c) The executive director will review the reports and provide the reports to the complaints committee.]~~

~~[(d) The complaints committee may consider more severe disciplinary proceedings if the licensee fails to comply with the provisions of a disciplinary order.]~~

~~§681.171 Assessment of Administrative Penalties~~

~~[The amount of an administrative penalty will be based on the following criteria.]~~

~~[(1) The seriousness of a violation will be categorized by one of the following severity levels:]~~

~~[(A) Level I—violations that have or had an adverse impact on the health or safety of a client (or former client, where applicable);]~~

~~[(B) Level II—violations that have or had the potential to cause an adverse impact on the health or safety of a client (or former client, where applicable) but did not actually have an adverse impact; or]~~

~~[(C) Level III—violations that have no or minor health or safety significance.]~~

~~[(2) The range of administrative penalties by severity levels is as follows:]~~

~~[(A) Level I—up to \$5,000 per day;]~~

~~[(B) Level II—up to \$2,500 per day; or]~~

~~[(C) Level III—up to \$1,250 per day.]~~

~~[(3) Subsequent violations in the same severity level for which an administrative penalty has previously been imposed will be categorized at the next highest severity level.]~~

~~[(4) Adjustments to the range of an administrative penalty may be made for:]~~

~~[(A) prompt reporting;]~~

~~[(B) corrective action;]~~

~~[(C) compliance history; or]~~

~~[(D) multiple violations.]~~

~~[(5) Supervisors who are in violation of a board rule in this chapter may be subject to an administrative penalty of up to \$5,000 per day depending on the level of severity of the violation and/or be required to refund all or a portion of the fees received by the supervisor to his or her LPC Intern(s).]~~

~~§681.172 Due Process Following Violation of an Order]~~

~~[(a) A licensee who is alleged to be in violation of a board disciplinary order will be provided with the following due process. The commission will send a Notice of Violation of the Order to the licensee. The Notice of Violation will include:]~~

~~[(1) a brief statement of the acts or omissions believed to constitute a violation, including information sufficient to inform the licensee about the date and nature of the violation;]~~

~~[(2) a statement that, within 10 days of receiving the Notice of Violation, the licensee must respond in writing to explain why the licensee believes he or she did not violate the Order, or if such violations did occur, why the disciplinary action proposed in the Order should not be imposed; and]~~

~~[(3) a statement in bold letters of at least 10 point font that, if the licensee fails to respond, the disciplinary action described in the Order will be imposed, and further that additional disciplinary actions may be taken if the conduct constituting the violation of the Order also violates a board rule or statute: "FAILURE TO RESPOND. YOUR FAILURE TO RESPOND WILL BE CONSIDERED A WAIVER OF YOUR RIGHT TO A HEARING. THE FACTUAL ALLEGATIONS IN THIS NOTICE OF VIOLATION WILL BE DEEMED ADMITTED AS TRUE AND THE PROPOSED DISCIPLINARY ACTION WILL BE IMPOSED BY DEFAULT. ADDITIONAL DISCIPLINARY ACTIONS MAY BE TAKEN."]~~

~~[(b) When the commission receives the licensee's written response, the executive director and board chair will review the response and decide whether there are sufficient grounds to find that~~

~~the Order was violated and, if so, whether the disciplinary action provided in the Order should be imposed.}]~~

~~[(c) The executive director and the board chair will write and submit their decision to the board for final action.}]~~

~~[(d) A decision to impose or to forego imposing disciplinary action under the terms of the Order does not preclude the board from initiating disciplinary action independent of the Order if the alleged conduct may constitute a violation of statute or rules.}]~~

[SUBCHAPTER L FORMAL HEARINGS]

[§681.181 Purpose]

~~[This subchapter covers the hearing practices and procedures that are available to persons or parties who request formal hearings. The intended effect of this subchapter is to supplement the contested case provisions of the APA and the hearing procedures of the State Office of Administrative Hearings (Texas Government Code, Chapter 2003).]~~

[§681.182 Formal Hearing Procedures]

~~[(a) For purposes of this section, default means the failure of the respondent to appear in person or by legal representative on the day and at the time set for hearing in a contested case or the failure to appear by telephone in accordance with the notice of hearing.]]~~

~~[(b) Remedies available upon default. The Administrative Law Judge (ALJ) may proceed in the party's absence and such failure to appear entitles the commission to seek informal disposition as provided by the APA. The ALJ may grant any motion by the commission to remove the case from the contested hearing docket and allow for informal disposition by the commissioner.]]~~

~~[(c) The board may enter a default judgment by issuing an order against the defaulting party in which the factual allegations in the notice of hearing are deemed admitted as true without the requirement of submitting additional proof, if it is established that proper notice was provided to the defaulting party opponent. For purposes of this section, proper notice means notice sufficient to meet the provisions of the Texas Government Code, Chapter 2001, and the State Office of Administrative Hearings Rules of Procedure.]]~~

~~[(d) Motion to set aside and reopen. A timely motion by the respondent to set aside the default order and reopen the record may be granted if the respondent establishes that the failure to attend the hearing was neither intentional nor the result of conscious indifference, and that such failure was due to mistake, accident, or circumstances beyond the respondent's control.]]~~

~~[(1) A motion to set aside the default order and reopen the record must be filed with the board prior to the time that the order of the board becomes final pursuant to the provisions of the Texas Government Code.]]~~

~~[(2) A motion to set aside the default order and reopen the record is not a motion for rehearing and is not to be considered a substitute for a motion for rehearing. The filing of a motion to set aside the default order and reopen has no effect on either the statutory time periods for the~~

~~filing of a motion for rehearing or on the time period for ruling on a motion for rehearing, as provided in the Texas Government Code.]~~

~~[(e) This subsection also applies to cases where service of the notice of hearing on a defaulting party is shown only by proof that the notice was sent to the party's last known address as shown on the commission's records, with no showing of actual receipt by the defaulting party or the defaulting party's agent. In that situation, the default procedures described in subsection (e) of this section may be used if there is credible evidence that the notice of hearing was sent by certified or registered mail, return receipt requested, to the defaulting party's last known address.]~~

~~[\$681.183 [does not exist]]~~

~~[\$681.184 Action After the Hearing]~~

~~[(a) Motion for rehearing. A motion for rehearing will be governed by the APA or other pertinent statutes and will be filed with the board.]~~

~~[(b) Appeals. All appeals from final board orders or decisions will be governed by the APA or other pertinent statutes and will be addressed to the board.]~~

SUBCHAPTER D [M] SCHEDULE OF SANCTIONS

§681.201 Purpose of Subchapter D [M]

~~This schedule of sanctions is adopted as required by the Act §503.2015(2) [§503.402]. [The schedule is intended to be utilized by the complaints committee as a guide in assessing sanctions for violations of the Act or this chapter. The schedule is also intended to serve as a guide to administrative law judges and as a written statement of applicable rules or policies of the board pursuant to Texas Government Code, §2001.058(e). The failure of an administrative law judge to follow the schedule may serve as a basis to vacate or modify an order pursuant to Texas Government Code, §2001.058(e). This schedule is not intended as a substitute for thoughtful consideration of each individual disciplinary matter. Rather, it should be used as a tool in that effort.]~~

~~[\$681.202 Relevant Factors]~~

~~[When a licensee has violated the Act or this chapter, three general factors combine to determine the appropriate sanction which includes: the culpability of the licensee; the harm caused or posed; and the requisite deterrence. It is the responsibility of the licensee to bring exonerating factors to the attention of the complaints committee or the administrative law judge. Specific factors are to be considered as set forth in paragraphs (1) — (5) of this section.]~~

~~[(1) Seriousness of Violation. The following factors are identified:]~~

~~[(A) the nature of the harm caused, or the risk posed, to the health, safety and welfare of the public, such as emotional, physical, or financial;]~~

~~[(B) the extent of the harm caused, or the risk posed, to the health, safety and welfare of the public, such as whether the harm is low, moderate or severe, and the number of persons harmed or exposed to risk; and]~~

~~[(C) the frequency and time periods covered by the violations, such as whether there were multiple violations, or a single violation, and the period of time over which the violations occurred.]~~

~~[(2) Nature of the violation. The following factors are identified:]~~

~~[(A) the relationship between the licensee and the person harmed, or exposed to harm such as a dependent relationship of a client-counselor, or stranger to the licensee;]~~

~~[(B) the vulnerability of the person harmed, or exposed to harm;]~~

~~[(C) the moral culpability of the licensee, such as whether the violation was:]~~

~~[(i) intentional or premeditated;]~~

~~[(ii) due to blatant disregard or gross neglect; or]~~

~~[(iii) resulted from simple error or inadvertence; and]~~

~~[(D) the extent to which the violation evidences lack of character, such as lack integrity, trustworthiness, or honesty.]~~

~~[(3) Personal Accountability. The following factors are identified:]~~

~~[(A) admission or wrong or error, and acceptance of responsibility;]~~

~~[(B) appropriate degree of remorse or concern;]~~

~~[(C) efforts to ameliorate the harm or make restitution;]~~

~~[(D) efforts to ensure future violations do not occur; and]~~

~~[(E) cooperation with any investigation or request for information.]~~

~~[(4) Deterrence. The following factors are identified:]~~

~~[(A) the sanction required to deter future similar violations by the licensee;]~~

~~[(B) sanctions necessary to ensure compliance by the licensee of other provisions of the Act or this chapter; and]~~

~~[(C) sanctions necessary to deter other licensees from such violations.]~~

~~[(5) Miscellaneous Factors. The following factors are identified:]~~

~~[(A) age and experience of the licensee at time of violation;]~~

~~[(B) presence or absence of prior or subsequent violations committed by the licensee;]~~

~~[(C) conduct and work activity prior to and following the violation;]~~

~~[(D) character references; and]~~

~~[(E) any other factors justice may require.]~~

§681.203 Severity Levels for the Schedule of Sanctions ~~[and Sanction Guide]~~

(a) The following are the severity levels for the schedule of sanctions.

~~The following severity levels and sanction guides are based on the relevant factors in §681.202 of this title (relating to Relevant Factors).~~

(1) Level One - revocation of license. These violations evidence intentional or gross misconduct on the part of the licensee and/or cause or pose a high degree of harm to the public and/or require severe punishment as a deterrent to the licensee, or other licensees. The fact that a license is ordered revoked does not necessarily mean the licensee can never regain licensure.

(2) Level Two - extended suspension of license. These violations involve less misconduct, harm, or need for deterrence than Level One violations, but may require termination of licensure for a period of not less than one year.

(3) Level Three - moderate suspension of license. These violations are less serious than Level Two violations, but may require termination of licensure for a period of time less than a year.

(4) Level Four - probated suspension of license. These violations do not involve enough harm, misconduct, or need for deterrence to warrant termination of licensure, yet are severe enough to warrant monitoring of the licensee to ensure future compliance. Probationary terms may be ordered as appropriate.

(5) Level Five - reprimand. These violations involve inadvertent or relatively minor misconduct and/or rule violations.

(b) Licensee who are in violation of a Council rule in this chapter may be subject to an administrative penalty of up to \$5,000 per violation, per day of occurrence, and/or be required to refund all or a portion of the fees received from a consumer.

(c) Supervisors who are in violation of a Council rule in this chapter may be subject to an administrative penalty of up to \$5,000 per violation, per day of occurrence, and/or be required to refund all or a portion of the fees received by the supervisor to his or her LPC Associate(s).

§681.204 Other Actions

(a) Complaints may be resolved by issuance of a warning letter or a conditional letter of agreement, which does not involve a formal disciplinary action.

(1) Warning letters inform licensees of their duties under the Act, the Council Act, or council rules, and whether the council has a concern about the circumstances surrounding the complaint.

(2) A conditional letter of agreement informs the licensee of the licensee's duties under the Act, the Council Act, or Council rules, whether the conduct or omission complained of appears to violate such duties, and creating Council ordered conditions for the long-term resolution of the issues in the complaint. This conditional letter of agreement specifies the immediate disposition of the complaint. The licensee is issued the conditional letter of agreement by staff; and a signature of agreement by the licensee is required. If the licensee fails to comply with all the Council ordered conditions in the specified time frame outlined in the conditional letter agreement, staff will open a new complaint arising out of non-compliance with the conditional letter agreement or the underlying conduct.

~~[The complaints committee or executive director, as appropriate, may also resolve pending complaints by issuance of formal advisory letters informing licensees of their duties under the Act or this chapter, and whether the conduct or omission complained of appears to violate such duties. Such advisory letters may be introduced as evidence in any subsequent disciplinary action involving acts or omissions after receipt of the advisory letters. The complaints committee or executive director, as appropriate, may also issue informal reminders to licensees regarding compliance with minor licensing matters. The licensee is not entitled to a hearing on the matters set forth in formal advisory letters or informal reminders, but may submit a written response to be included with such letters in the licensing record.]~~

§681.205 Schedule of Sanctions

The following standard sanctions shall apply to violations of the Act and these rules.

<u>Rule</u>			<u>Action</u>
§681.41(a)	-	A licensee must not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the licensee's services, including, but not limited to:	L5
-	1	the effectiveness of services;	L5
-	2	the licensee's qualifications, capabilities, background, training, experience, education, professional affiliations, fees, products, or publications; or	L5
-	3	the practice or field of counseling.	L5
§681.41(b)	-	A licensee must not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the services of a mental health organization or agency, including, but not limited to, the effectiveness of services, qualifications, or products.	L5
§681.41(c)	-	A licensee must discourage a client from holding exaggerated or false ideas about the licensee's professional services, including, but not limited to, the effectiveness of the services, practice, qualifications, associations, or activities. If a licensee learns of exaggerated or false ideas held by a client or other person, the licensee must take immediate and reasonable action to correct the ideas held.	L5
§681.41(d)	-	A licensee must make reasonable efforts to discourage others whom the licensee does not control from making misrepresentations; exaggerated or false claims; or false, deceptive, or fraudulent statements about the licensee's practice, services, qualifications, associations, or activities. If a licensee learns of a misrepresentation; exaggerated or false claim; or false, deceptive, or fraudulent statement made by another, the licensee must take immediate and reasonable action to correct the statement.	L5
§681.41(e)	-	Regardless of setting, a licensee must provide counseling only in the context of a professional relationship. Prior to providing services, a licensee must obtain from an individual a signed informed consent, signed written receipt of information, or in the case of involuntary treatment a copy of the appropriate court order, including the following:	L4
-	1	fees and arrangements for payment;	L4
-	2	counseling purposes, goals, and techniques;	L4

-	<u>3</u>	<u>any restrictions placed on the license by the Council;</u>	<u>L4</u>
-	<u>4</u>	<u>the limits on confidentiality;</u>	<u>L4</u>
-	<u>5</u>	<u>any intent of the licensee to use another individual to provide counseling treatment intervention to the client; and</u>	<u>L4</u>
-	<u>6</u>	<u>supervision of the licensee by another licensed health care professional including the name, address, contact information and qualifications of the supervisor;</u>	<u>L4</u>
-	<u>7</u>	<u>the name, address and telephone number of the Council for the purpose of reporting violations of the Act or this chapter; and</u>	<u>L4</u>
-	<u>8</u>	<u>the established plan for the custody and control of the client's mental health records in the event of the licensee's death or incapacity, or the termination of the licensee's counseling practice.</u>	<u>L4</u>
<u>§681.41(f)</u>	-	<u>A licensee must inform the client in writing of any changes to the items in subsection (e) of this section prior to initiating the change.</u>	<u>L4</u>
<u>§681.41(g)</u>	-	<u>Technological means of communication may be used to facilitate the therapeutic counseling process.</u>	<u>L5</u>
<u>§681.41(h)</u>	-	<u>In accordance with the provisions of the Act, §503.401(a)(4), a licensee must not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting clients or patronage.</u>	<u>L3</u>
<u>§681.41(i)</u>	-	<u>A licensee employed or under contract with a chemical dependency facility or a mental health facility must comply with the requirements in the Texas Health and Safety Code, §164.006, relating to soliciting and contracting with certain referral sources. Compliance with the Treatment Facilities Marketing Practices Act, Texas Health and Safety Code Chapter 164, must not be considered as a violation of state law relating to illegal remuneration.</u>	<u>L3</u>
<u>§681.41(j)</u>	-	<u>A licensee must not engage in activities for the licensee's personal gain at the expense of a client.</u>	<u>L4</u>
<u>§681.41(k)</u>	-	<u>A licensee may promote the licensee's personal or business activities to a client if such activities, services or products are to facilitate the counseling process or help achieve the client's counseling goals. Prior to engaging in any such activities, services or product sales with the client, the licensee must first inform the client of the licensee's personal and/or business interest therein. A licensee must not exert undue influence in promoting such activities, services or products.</u>	<u>L4</u>
<u>§681.41(l)</u>	-	<u>A licensee must set and maintain professional boundaries.</u>	<u>L4</u>
<u>§681.41(m)</u>	-	<u>Except as provided by this subchapter, non-therapeutic relationships with clients are prohibited.</u>	<u>L4</u>
-	<u>2</u>	<u>A licensee may not engage in a non-therapeutic relationship with a client if the relationship begins less than two (2) years after the end of the counseling relationship; the non-therapeutic relationship must be consensual, not the result of exploitation by the licensee, and is not detrimental to the client.</u>	<u>L4</u>
-	<u>3</u>	<u>A licensee may not engage in sexual contact with a client if the contact begins less than five (5) years after the end of the counseling relationship; the non-therapeutic relationship must be consensual, not the result of exploitation by the licensee, and is not detrimental to the client.</u>	<u>L1</u>

-	<u>5</u>	<u>The licensee must not provide counseling services to previous or current:(A) family members; (B) personal friends; (C) educational associates; or (D) business associates.</u>	<u>L5</u>
-	<u>6</u>	<u>The licensee must not give or accept a gift from a client or a relative of a client valued at more than \$50, borrow or lend money or items of value to clients or relatives of clients, or accept payment in the form of goods or services rendered by a client or relative of a client.</u>	<u>L5</u>
-	<u>7</u>	<u>The licensee must not enter into a non-professional relationship with a client's family member or any person having a personal or professional relationship with a client if the licensee knows or reasonably should have known such a relationship could be detrimental to the client.</u>	<u>L4</u>
<u>§681.41(n)</u>	-	<u>The licensee must not knowingly offer or provide counseling to an individual concurrently receiving counseling treatment intervention from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent therapy, the licensee must request release from the client to inform the other professional and strive to establish positive and collaborative professional relationships.</u>	<u>L5</u>
<u>§681.41(p)</u>	-	<u>The licensee must take reasonable precautions to protect clients from physical or emotional harm resulting from interaction:</u>	<u>L5</u>
<u>§681.41(q)</u>	-	<u>For each client, a licensee must keep accurate records of:</u>	<u>L5</u>
-	<u>1</u>	<u>signed informed consent, signed written receipt of information, or in the case of involuntary treatment a copy of the appropriate court order</u>	<u>L4</u>
-	<u>2</u>	<u>intake assessment;</u>	<u>L5</u>
-	<u>3</u>	<u>dates of counseling treatment intervention;</u>	<u>L5</u>
-	<u>4</u>	<u>principal treatment methods;</u>	<u>L5</u>
-	<u>5</u>	<u>progress notes;</u>	<u>L5</u>
-	<u>6</u>	<u>treatment plan; and</u>	<u>L5</u>
-	<u>7</u>	<u>billing information.</u>	<u>L5</u>
<u>§681.41(r)</u>	-	<u>Records held by a licensee must be kept for a minimum of seven (7) years from the date of termination of services with the client or five (5) years after the client reaches age of majority, whichever is greater.</u>	<u>L5</u>
<u>§681.41(t)</u>	-	<u>Billing Requirements.</u>	-
-	<u>1</u>	<u>A licensee must bill clients or third parties for only those services actually rendered or as agreed to by mutual understanding at the beginning of services or as later modified by mutual written agreement.</u>	<u>L5</u>
-	<u>2</u>	<u>Relationships between a licensee and any other person used by the licensee to provide services to a client must be so reflected on billing documents.</u>	<u>L5</u>
-	<u>3</u>	<u>Pursuant to Texas Health and Safety Code, Chapter 611 on the written request of a client, a client's guardian, or a client's parent (sole managing, joint managing or possessory conservator) if the client is a minor, a licensee must provide, in plain language, a written explanation of the types of treatment and charges for counseling treatment intervention previously made on a bill or statement for the client. This requirement applies even if the charges are to be paid by a third party.</u>	<u>L5</u>
-	<u>4</u>	<u>A licensee may not knowingly overcharge a client.</u>	<u>L4</u>
-	<u>5</u>	<u>With the exception of an unkept appointment, a licensee may not submit to a client or a third party payor a bill for counseling treatment</u>	<u>L4</u>

		<u>intervention the licensee knows or should know is improper, unreasonable, or unnecessary.</u>	
§681.41(u)	-	<u>A licensee must comply with all requirements of Texas Health and Safety Code Chapters 611 and 181 concerning the release of mental health records and confidential information.</u>	<u>L4</u>
§681.41(v)	-	<u>Prior to the commencement of counseling services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order as well as any applicable part of the divorce decree. A licensee must maintain these documents in the client's record and abide by the documents at all times. When federal or state statutes provide an exemption to secure consent of a parent or guardian prior to providing services to a minor, a licensee must follow the protocol set forth in such federal or state statutes.</u>	<u>L5</u>
§681.41(w)	-	<u>A licensee must terminate a professional counseling relationship when it is reasonably clear the client is not benefiting from the relationship.</u>	<u>L4</u>
§681.41(x)	-	<u>Upon termination of a relationship if professional counseling is still necessary, the licensee must take reasonable steps to facilitate the transfer to appropriate care.</u>	<u>L5</u>
§681.41(y)	-	<u>A licensee must not evaluate any individual's mental, emotional, or behavioral condition unless the licensee has personally interviewed the individual or the licensee discloses in the evaluation the licensee has not personally interviewed the individual.</u>	<u>L4</u>
§681.41(z)	-	<u>A licensee must not knowingly overtreat a client.</u>	<u>L4</u>
§681.41(aa)	-	<u>A licensee must not aid or abet the unlicensed practice of professional counseling by a person required to be licensed under the Act.</u>	<u>L1</u>
§681.41(cc)	-	<u>A licensee or an applicant for licensure must not participate in any way in the falsification of applications for licensure or renewal of license.</u>	<u>L1</u>
§681.42(b)	-	<u>A licensee must not engage in sexual contact with or sexual exploitation of a person who is:</u>	-
-	<u>1</u>	<u>a client</u>	<u>L1</u>
-	<u>2</u>	<u>an LPC Associate supervised by the licensee; or</u>	<u>L1</u>
-	<u>3</u>	<u>a student of a licensee at an educational institution at which the licensee provides professional or educational services.</u>	<u>L1</u>
§681.42(c)	-	<u>A licensee must not practice therapeutic deception of a client.</u>	<u>L1</u>
§681.42(f)	-	<u>A licensee must report sexual misconduct as follows:</u>	-
-	<u>1</u>	<u>If a licensee has reasonable cause to suspect a client, LPC Associate, or student has been the victim of sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health provider, or if a client, LPC Associate, or student alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider, the licensee must report the alleged conduct not later than the third business day after the date the licensee became aware of the conduct or the allegations to:</u>	<u>L5</u>
-	-	<u>(A) the prosecuting attorney in the county in which the alleged sexual exploitation, sexual contact or therapeutic deception occurred;</u>	<u>L5</u>
-	-	<u>(B) the Council if the conduct involves a licensee and any other state licensing agency which licenses the mental health provider; and</u>	<u>L5</u>

-	-	<u>(C) to the appropriate agency listed in §681.45 of this title (relating to Confidentiality and Required Reporting).</u>	<u>L5</u>
-	<u>2</u>	<u>Before making a report under this subsection, the reporter must inform the alleged victim of the reporter's duty to report and must determine if the alleged victim wants to remain anonymous.</u>	<u>L5</u>
<u>§681.43(a)</u>	-	<u>Prior to or following the administration of any test, a licensee must make known to clients the purposes and explicit use to be made of the test as a part of a professional counseling relationship.</u>	<u>L5</u>
<u>§681.43(b)</u>	-	<u>A licensee must not appropriate, reproduce, or modify copyrighted tests or any parts thereof without the acknowledgment and permission of the copyright owner.</u>	<u>L5</u>
<u>§681.43(c)</u>	-	<u>A licensee must not administer any test without the appropriate training and experience to administer and interpret the test.</u>	<u>L4</u>
<u>§681.43(d)</u>	-	<u>A licensee must observe the necessary precautions to maintain the security of any test administered by the licensee or under the licensee's supervision.</u>	<u>L5</u>
<u>§681.43(e)</u>	-	<u>In accordance with the §503.003(b)(1) of the Act, the use of standardized projective techniques is prohibited. This prohibition includes, but is not limited to, the Rorschach Inkblot Test, the Holtzman Inkblot Test, the Thematic Apperception Test, the Children's Apperception Test, and the Senior Apperception Test.</u>	<u>L5</u>
<u>§681.44</u>	-	<u>A licensee must not:</u>	-
-	<u>1</u>	<u>use alcohol or drugs in a manner that adversely affects the licensee's ability to provide counseling;</u>	<u>L3</u>
<u>§681.45(b)</u>	-	<u>A licensee must not disclose any communication, record, or identity of a client except as provided in Texas Health and Safety Code Chapter 611 or other state or federal statutes or rules.</u>	<u>L4</u>
<u>§681.45(c)</u>	-	<u>A licensee must comply with Texas Health and Safety Code, Chapters 181 and 611, concerning access to mental health records and confidential information.</u>	<u>L4</u>
<u>§681.45(d)</u>	-	<u>A licensee must report information as required by the following statutes:</u>	-
-	<u>1</u>	<u>Texas Family Code Chapter 261, Subchapter B, concerning report of abuse or neglect of minors;</u>	<u>L4</u>
-	<u>2</u>	<u>Texas Human Resources Code Chapter 48, Subchapter B, concerning reports of abuse, neglect, or exploitation of elderly or disabled persons;</u>	<u>L4</u>
-	<u>3</u>	<u>Texas Health and Safety Code Chapter 161, Subchapter L, concerning abuse, neglect, and unprofessional or unethical conduct in health care facilities; and</u>	<u>L4</u>
-	<u>4</u>	<u>Texas Civil Practice and Remedies Code, §81.006, concerning duty to report sexual exploitation by a mental health provider.</u>	<u>L4</u>
-	<u>5</u>	<u>A licensee must comply with Texas Occupations Code §109.051 relating to the release of treatment information concerning the treatment of a sex offender.</u>	<u>L4</u>
<u>§681.46(b)</u>	-	<u>A licensee has the responsibility of reporting alleged violations of the Act or this chapter to the Council.</u>	<u>L5</u>
<u>§681.47(b)</u>	-	<u>An assumed or trade name used by a licensee must not be false, deceptive, or misleading as those terms are described in §681.49(b) of this title (relating to Advertising and Announcements).</u>	<u>L5</u>

<u>§681.49(a)</u>	-	<u>Information used by a licensee in any advertisement or announcement must not contain information which is false, inaccurate, misleading, incomplete, out of context, deceptive or not readily verifiable. Advertising includes, but is not limited to, any announcement of services, letterhead, business cards, commercial products, and billing statements.</u>	<u>L5</u>
<u>§681.49(d)</u>	-	<u>The highest academic degree in counseling or a counseling-related field earned from an accredited school may be used when advertising or announcing counseling treatment intervention to the public or in counseling-related professional representations. A degree in counseling or a counseling-related field received at a foreign university may be used if the degree would be accepted as a transfer degree by an accredited school.</u>	<u>L5</u>
<u>§681.49(e)</u>	-	<u>Notwithstanding the foregoing, a licensee may advertise or announce his or her other degrees from an accredited school if the subject of the degree is specified.</u>	<u>L5</u>
<u>§681.49(g)</u>	-	<u>All advertisements or announcements of counseling including telephone directory listings by a person licensed by the Council must clearly state the licensee's licensure status by the use of a title such as "Licensed Counselor", or "Licensed Professional Counselor", or "LPC", or a statement such as "licensed by the Texas Behavioral Health Executive Council" with reference to the "Texas State Board of Examiners of Professional Counselors."</u>	<u>L5</u>
<u>§681.49(h)</u>	-	<u>An LPC Associate must indicate intern status on all advertisements, billing, and announcements of counseling treatment by the use of the term "LPC Associate." On all advertisements, billings and announcements of counseling treatment by an LPC Associate, the associate's name must be followed by the name of the supervisor.</u>	<u>L5</u>
<u>§681.49(i)</u>	-	<u>A licensee is required to hold the art therapy specialty designation in order to use the title "art therapist" or the initials "AT." A licensee who does not hold the designation may use art therapy as a counseling method but may not use the title or initials.</u>	<u>L5</u>
<u>§681.50(a)</u>	-	<u>In research with a human participant, a licensee must take reasonable precautions to ensure that the participant does not suffer emotional or physical harm.</u>	<u>L5</u>
<u>§681.50(b)</u>	-	<u>A licensee must ensure the full protection of a client's identity when using data obtained from a professional counseling relationship for the purposes of education or research.</u>	<u>L5</u>
<u>§681.50(c)</u>	-	<u>When conducting or reporting research, a licensee must give recognition to previous work on the topic as well as observe all copyright laws.</u>	<u>L5</u>
<u>§681.50(d)</u>	-	<u>A licensee must give due credit through joint authorship, acknowledgment, footnote statements, or other appropriate means to the person/persons who have contributed significantly to the licensee's research or publication.</u>	<u>L5</u>
<u>§681.91(d)</u>	-	<u>An LPC Associate may practice counseling only as part of his or her internship and only under the supervision of a Licensed Professional Counselor Supervisor (LPC-S). The LPC Associate may not own an independent professional counseling practice.</u>	<u>L1</u>
<u>§681.91(l)</u>	-	<u>An LPC Associate must not accept direct payment for services from a client.</u>	<u>L4</u>
<u>§681.93(c)(2)</u>	-	<u>The supervisor may not be an employee of his or her LPC Associate.</u>	<u>L5</u>

<u>§681.93(a)</u>	-	<u>A supervisor must keep a written record of each supervisory session in the file for the LPC Associate.</u>	-
-	<u>1</u>	<u>The supervisory written record must contain:</u>	-
-	-	<u>(A) a signed and dated copy of the Council's supervisory agreement form for each of the LPC Associate's supervisors;</u>	<u>L5</u>
-	-	<u>(B) a copy of the LPC Associate's wall certificate noting the dates of issuance and expiration;</u>	<u>L5</u>
-	-	<u>(C) fees and record of payment;</u>	<u>L5</u>
-	-	<u>(D) the date of each supervisory session;</u>	<u>L5</u>
-	-	<u>(E) a record of an LPC Associate's leave of one month or more, documenting the supervisor's approval and signed by both the LPC Associate and the supervisor; and</u>	<u>L5</u>
-	-	<u>(F) a record of any concerns the supervisor discussed with the LPC Associate, including a written remediation plan as prescribed in subsection (e) of this section.</u>	<u>L5</u>
-	<u>2</u>	<u>The supervisor must provide a copy of all records to the LPC Associate upon request.</u>	<u>L5</u>
<u>§681.93(c)</u>	-	<u>The supervisor must avoid any relationship that impairs the supervisor's objective, professional judgment.</u>	<u>L5</u>
-	<u>1</u>	<u>The supervisor may not be related to the LPC Associate within the second degree of affinity or within the third degree of consanguinity.</u>	<u>L5</u>
-	<u>2</u>	<u>The supervisor may not be an employee of his or her LPC Associate.</u>	<u>L5</u>
<u>§681.93(d)</u>	-	<u>The supervisor must submit to the Council accurate documentation of the LPC Associate's supervised experience within 30 days of the end of supervision or the completion of the LPC Associate's required hours, whichever comes first.</u>	<u>L5</u>
<u>§681.93(e)</u>	-	<u>If a supervisor determines the LPC Associate may not have the counseling skills or competence to practice professional counseling under an LPC license, the supervisor will develop and implement a written plan for remediation of the LPC Associate, which must be reviewed and signed by the LPC Associate and maintained as part of the LPC Associate's file.</u>	<u>L5</u>
<u>§681.93(f)</u>	-	<u>The supervisor must ensure the supervised counseling experience of the LPC Associate were earned:</u>	-
-	<u>1</u>	<u>after the LPC Associate license was issued; and</u>	<u>L5</u>
-	<u>2</u>	<u>in not less than 18 months of supervised counseling experience.</u>	<u>L5</u>
<u>§681.93(h)</u>	-	<u>Upon execution of a Council order for probated suspension, suspension, or revocation of the LPC license with supervisor status, the supervisor status is revoked. A licensee whose supervisor status is revoked:</u>	-
-	<u>2</u>	<u>must refund all supervisory fees for supervision after the date the supervisor status is revoked; and</u>	<u>L4</u>
<u>§681.51(b)</u>	-	<u>A licensee who serves as a parenting coordinator has a duty to provide the following information in writing to the parties of the suit about the responsibility of the licensee and the role of the appointed court.</u>	-
-	<u>3</u>	<u>A licensee must not provide professional counseling services to any person while simultaneously providing parenting coordination services. This section does not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.</u>	<u>L4</u>

<u>§681.52(d)</u>	-	<u>In accordance with Texas Family Code, §153.6102(e), a licensee serving as a parenting facilitator must not provide other professional counseling services to any person while simultaneously providing parent facilitation services. This section does not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.</u>	<u>L4</u>
<u>§681.52(e)</u>	-	<u>In accordance with Texas Family Code, §153.6101(b)(1), a licensed professional counselor associate must not serve as a parenting facilitator.</u>	<u>L5</u>
<u>§681.52(i)</u>	-	<u>A licensee, serving as a parenting facilitator, must be alert to the reasonable suspicion of acts of domestic violence directed at a parent, a current partner, or children. The parenting facilitator must adhere to protection orders, if any, and take reasonable measures to ensure the safety of the participants, the children and the parenting facilitator, while understanding that even with appropriate precautions a guarantee that no harm will occur can be neither stated nor implied.</u>	<u>L5</u>
<u>§681.52(j)</u>	-	<u>In order to protect the parties and children in domestic violence cases involving power, control and coercion, a parenting facilitator must tailor the techniques used so as to avoid offering the opportunity for further coercion.</u>	<u>L5</u>
<u>§681.52(k)</u>	-	<u>A licensee serving as a parent facilitator must be alert to the reasonable suspicion of substance abuse by parents or children, as well as mental health impairment of a parent or child.</u>	<u>L5</u>
<u>§681.52(l)</u>	-	<u>A licensee serving as a parenting facilitator must not provide legal advice.</u>	<u>L5</u>
<u>§681.52(m)</u>	-	<u>A licensee serving as a parenting facilitator must serve by written agreement of the parties and/or formal order of the court.</u>	<u>L5</u>
<u>§681.52(n)</u>	-	<u>A licensee serving as a parenting facilitator must not initiate providing services until the licensee has received and reviewed the fully executed and filed court order or the signed agreement of the parties.</u>	<u>L5</u>
<u>§681.52(o)</u>	-	<u>A licensee serving as a parenting facilitator must maintain impartiality in the process of parenting facilitation. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.</u>	<u>L5</u>
<u>§681.52(p)</u>	-	<u>A licensee serving as a parenting facilitator:</u>	-
-	<u>1</u>	<u>must terminate or withdraw services if the licensee determines the licensee cannot act in an impartial or objective manner;</u>	<u>L5</u>
-	<u>2</u>	<u>must not give or accept a gift, favor, loan or other item of value from any party having an interest in the parenting facilitation process;</u>	<u>L5</u>
-	<u>3</u>	<u>must not coerce or improperly influence any party to make a decision;</u>	<u>L5</u>
-	<u>4</u>	<u>must not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting facilitator process; and</u>	<u>L5</u>
-	<u>5</u>	<u>must not accept any engagement, provide any service, or perform any act outside the role of parenting facilitation that would compromise the facilitator's integrity or impartiality in the parenting facilitation process.</u>	<u>L5</u>
<u>§681.52(q)</u>	-	<u>A licensee serving as a parenting facilitator may make referrals to other professionals to work with the family, but must avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, or similar remuneration must be given or received by a licensee for parenting facilitation or other professional referrals.</u>	<u>L5</u>

<u>§681.52(s)</u>	-	<u>A licensee serving as a parenting facilitator must communicate with all parties, attorneys, children, and the court in a manner which preserves the integrity of the parenting facilitation process and considers the safety of the parents and children.</u>	<u>L5</u>
<u>§681.52(u)</u>	-	<u>A licensee serving as a parenting facilitator must, prior to the beginning of the parenting facilitation process and in writing, inform the parties of:</u>	<u>L5</u>
-	<u>1</u>	<u>the limitations on confidentiality in the parenting facilitation process; and</u>	<u>L5</u>
-	<u>2</u>	<u>the basis of fees and costs and the method of payment including any fees associated with postponement, cancellation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.</u>	<u>L5</u>
<u>§681.52(v)</u>	-	<u>Information obtained during the parenting facilitation process must not be shared outside the parenting facilitation process except for professional purposes, as provided by court order, by written agreement of the parties, or as directed by the Council.</u>	<u>L5</u>
<u>§681.52(w)</u>	-	<u>In the initial session with each party, a licensee serving as a parenting facilitator must review the nature of the parenting facilitator's role with the parents to ensure that they understand the parenting facilitation process.</u>	<u>L5</u>
<u>§681.52(x)</u>	-	<u>(x) A licensee serving as a parenting facilitator:</u>	<u>L5</u>
-	<u>1</u>	<u>must comply with all mandatory reporting requirements, including but not limited to Texas Family Code Chapter 261, concerning abuse or neglect of minors;</u>	<u>L5</u>
-	<u>2</u>	<u>must report to law enforcement or other authorities if they have reason to believe that any participant appears to be at serious risk to harm themselves or a third party;</u>	<u>L5</u>
-	<u>3</u>	<u>must maintain records necessary to support charges for services and expenses and must make a detailed accounting of those charges to the parties and their counsel if requested to do so;</u>	<u>L5</u>
-	<u>4</u>	<u>must maintain notes regarding all communications with the parties, the children, and other persons with whom they speak about the case; and</u>	<u>L5</u>
-	<u>5</u>	<u>must maintain records in a manner that is professional, legible, comprehensive, and inclusive of information and documents that relate to the parenting facilitation process and that support any recommendations made by the licensee.</u>	<u>L5</u>
<u>§681.52(y)</u>	-	<u>Records of a licensee serving as a parenting facilitator, are not mental health records and are not subject to the disclosure requirements of Texas Health and Safety Code, Chapter 611. At a minimum, records must be maintained for the period of time described in §681.41(r) of this title (relating to General Ethical Requirements), or as otherwise directed by the court.</u>	<u>L5</u>
<u>§681.52(z)</u>	-	<u>Records of a licensee serving as a parenting facilitator must be released on the request of either parent, as directed by the court, or as directed by the Council.</u>	<u>L5</u>
<u>§681.52(aa)</u>	-	<u>Charges for parenting facilitation services must be based upon the actual time expended by the parenting facilitator or as directed by the written agreement of the parties and/or formal order of the court.</u>	<u>L5</u>
<u>§681.52(bb)</u>	-	<u>All fees and costs must be appropriately divided between the parties as directed by the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.</u>	<u>L5</u>

<u>§681.52(dd)</u>	-	<u>Services and activities for which a licensee serving as a parenting facilitator may charge include time spent interviewing parents, children and collateral sources of information; preparation of agreements, correspondence, and reports; review of records and correspondence; telephone and electronic communication; travel; court preparation; and appearances at hearings, depositions and meetings.</u>	<u>L5</u>
<u>§681.52(ff)</u>	-	<u>A licensee serving as a parent facilitator must decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the licensee's skill or expertise.</u>	<u>L5</u>
<u>§681.53(a)</u>	-	<u>Licensees must comply with Texas Family Code, Chapter 107, Subchapters D, E, and F concerning Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions.</u>	<u>L5</u>
<u>§681.53(c)</u>	-	<u>Any complaint relating to the outcome of a child custody evaluation or adoption evaluation conducted by a licensee must be reported to the court that ordered the evaluation.</u>	<u>L5</u>
<u>§681.53(d)</u>	-	<u>Disclosure of confidential information in violation of Texas Family Code, §107.111 or §107.163 is grounds for disciplinary action, up to and including revocation of license, by the Council.</u>	<u>L5</u>
<u>§681.53(e)</u>	-	<u>A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a divorce, child custody determination, disability claim, or criminal prosecution, must comply with all applicable Council rules regardless of whether the licensee is acting as a factual witness or an expert.</u>	<u>L5</u>
<u>§681.53(f)</u>	-	<u>A licensee may not provide therapy and any other type of service, including but not limited to a child custody evaluation or parenting facilitation, in the same case, whether such services are delivered sequentially or simultaneously.</u>	<u>L4</u>
<u>§681.53(g)</u>	-	<u>Licensees may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation relating to the child under Texas Family Code, Subchapter D, Chapter 107.</u>	<u>L3</u>
<u>§681.53(h)</u>	-	<u>Licensees providing child custody evaluations or adoption evaluations must, prior to beginning the evaluation, in writing inform the parties of:</u>	<u>L5</u>
-	<u>1</u>	<u>The limitations on confidentiality in the evaluation process; and</u>	<u>L4</u>
-	<u>2</u>	<u>The basis of fees and costs and the method of payment, including any fees associated with postponement, cancelation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.</u>	<u>L4</u>
<u>§681.53(i)</u>	-	<u>A Licensed Professional Counselor Associate (LPC Associate) must not conduct child custody evaluations or adoption evaluations unless qualified by another professional license to provide such services.</u>	<u>L4</u>

[SUBCHAPTER N PARENTING COORDINATION AND FACILITATION AND CHILD CUSTODY AND ADOPTION EVALUATIONS]

[§681.251 Parenting Coordination]

[(a) In accordance with Texas Family Code, §153.601(3), "parenting coordinator" means an impartial third party:]

~~[(1) who, regardless of the title by which the person is designated by the court, performs any function described in Texas Family Code, §153.606, in a suit; and]~~

~~[(2) who:]~~

~~[(A) is appointed under Texas Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues through confidential procedures; and]~~

~~[(B) is not appointed under another statute or a rule of civil procedure.]~~

~~[(b) A licensee who serves as a parenting coordinator has a duty to provide the following information in writing to the parties of the suit about the responsibility of the licensee and the role of the appointed court.]~~

~~[(1) A licensee, who serves as a parenting coordinator, is not acting under the authority of a license issued by the board and is not engaged in the practice of professional counseling. The services provided by the licensee who serves as a parenting coordinator are not within the jurisdiction of the board, but rather the jurisdiction of the appointing court.]~~

~~[(2) Records of a licensee serving as a parenting coordinator are confidential under Texas Civil Practice and Remedies Code, §154.073. Licensees serving as a confidential parenting coordinator must comply with the Texas Civil Practice and Remedies Code, Chapter 154, relating to the release of information.]~~

~~[(3) A licensee must not provide professional counseling services to any person while simultaneously providing parenting coordination services. This section does not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.]~~

~~§681.252 Parenting Facilitation~~

~~[(a) In accordance with Texas House Bill 1012, 81st Legislature, 2009, and Family Code, Chapter 153, this section establishes the practice standards for licensees who desire to serve as parenting facilitators.]~~

~~[(b) In accordance with Texas Family Code, §153.601(3-a), a "parenting facilitator" means an impartial third party:]~~

~~[(1) who, regardless of the title by which the person is designated by the court, performs any function described by Texas Family Code, §153.6061, in a suit; and]~~

~~[(2) who:]~~

~~[(A) is appointed under Texas Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion or on a motion or agreement of the parties to assist parties in resolving parenting issues through procedures that are not confidential; and]~~

~~[(B) is not appointed under another statute or a rule of civil procedure.]~~

~~[(c) Notwithstanding any other provision of this chapter, licensees who desire to serve as parenting facilitators must comply with all applicable requirements of the Texas Family Code,~~

Chapter 153, and this section. Licensees must also comply with all requirements of this chapter unless a provision is clearly inconsistent with the Texas Family Code, Chapter 153, or this section.}]

~~[(d) In accordance with Texas Family Code, §153.6102(e), a licensee serving as a parenting facilitator must not provide other professional counseling services to any person while simultaneously providing parent facilitation services. This section does not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.}]~~

~~[(e) In accordance with Texas Family Code, §153.6101(b)(1), a licensed professional counselor intern must not serve as a parenting facilitator.}]~~

~~[(f) A licensee serving as a parenting facilitator utilizes child-focused alternative dispute resolution processes, assists parents in implementing their parenting plan by facilitating the resolution of disputes in a timely manner, educates parents about children's needs, and engages in other activities as referenced in Texas Family Code, Chapter 153.}]~~

~~[(g) A licensee serving as a parent facilitator must assist the parties involved in reducing harmful conflict and in promoting the best interests of the children.}]~~

~~[(h) A licensee serving as a parenting facilitator functions in four primary areas in providing services.}]~~

~~[(1) Conflict management function—The primary role of the parenting facilitator is to assist the parties to work out disagreements regarding the children to minimize conflict. To assist the parents in reducing conflict, the parenting facilitator may monitor the electronic or written exchanges of parent communications and suggest productive forms of communication that limit conflict between the parents.}]~~

~~[(2) Assessment function—A parenting facilitator must review applicable court orders, including protective orders, social studies, and other relevant records to analyze the impasses and issues as brought forth by the parties.}]~~

~~[(3) Educational function—A parenting facilitator must educate the parties about child development, divorce, the impact of parental behavior on children, parenting skills, and communication and conflict resolution skills.}]~~

~~[(4) Coordination/case management function—A parenting facilitator must work with the professionals and systems involved with the family (for example, mental health, health care, social services, education, or legal) as well as with extended family, stepparents, and significant others as necessary.}]~~

~~[(i) A licensee, serving as a parenting facilitator, must be alert to the reasonable suspicion of acts of domestic violence directed at a parent, a current partner, or children. The parenting facilitator must adhere to protection orders, if any, and take reasonable measures to ensure the safety of the participants, the children and the parenting facilitator, while understanding that even with appropriate precautions a guarantee that no harm will occur can be neither stated nor implied.}]~~

~~[(j) In order to protect the parties and children in domestic violence cases involving power, control and coercion, a parenting facilitator must tailor the techniques used so as to avoid offering the opportunity for further coercion.]~~

~~[(k) A licensee serving as a parent facilitator must be alert to the reasonable suspicion of substance abuse by parents or children, as well as mental health impairment of a parent or child.]~~

~~[(l) A licensee serving as a parenting facilitator must not provide legal advice.]~~

~~[(m) A licensee serving as a parenting facilitator must serve by written agreement of the parties and/or formal order of the court.]~~

~~[(n) A licensee serving as a parenting facilitator must not initiate providing services until the licensee has received and reviewed the fully executed and filed court order or the signed agreement of the parties.]~~

~~[(o) A licensee serving as a parenting facilitator must maintain impartiality in the process of parenting facilitation. Impartiality means freedom from favoritism or bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.]~~

~~[(p) A licensee serving as a parenting facilitator:]~~

~~[(1) must terminate or withdraw services if the licensee determines the licensee cannot act in an impartial or objective manner;]~~

~~[(2) must not give or accept a gift, favor, loan or other item of value from any party having an interest in the parenting facilitation process;]~~

~~[(3) must not coerce or improperly influence any party to make a decision;]~~

~~[(4) must not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting facilitator process; and]~~

~~[(5) must not accept any engagement, provide any service, or perform any act outside the role of parenting facilitation that would compromise the facilitator's integrity or impartiality in the parenting facilitation process.]~~

~~[(q) A licensee serving as a parenting facilitator may make referrals to other professionals to work with the family, but must avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, or similar remuneration must be given or received by a licensee for parenting facilitation or other professional referrals.]~~

~~[(r) A licensee serving as a parenting facilitator should attempt to bring about resolution of issues by agreement of the parties; however, the parenting facilitator is not acting in a formal mediation role. An effort towards resolving an issue, which may include therapeutic, mediation, education, and negotiation skills, does not disqualify a licensee from making recommendations regarding any issue that remains unresolved after efforts of facilitation.]~~

~~[(s) A licensee serving as a parenting facilitator must communicate with all parties, attorneys, children, and the court in a manner which preserves the integrity of the parenting facilitation process and considers the safety of the parents and children.]~~

~~[(t) A licensee serving as a parenting facilitator:]~~

~~[(1) may meet individually or jointly with the parties, as deemed appropriate by the parenting facilitator, and may interview the children;]~~

~~[(2) may interview any individuals who provide services to the children to assess the children's needs and wishes; and]~~

~~[(3) may communicate with the parties through face-to-face meetings or electronic communication.]~~

~~[(u) A licensee serving as a parenting facilitator must, prior to the beginning of the parenting facilitation process and in writing, inform the parties of:]~~

~~[(1) the limitations on confidentiality in the parenting facilitation process; and]~~

~~[(2) the basis of fees and costs and the method of payment including any fees associated with postponement, cancellation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.]~~

~~[(v) Information obtained during the parenting facilitation process must not be shared outside the parenting facilitation process except for professional purposes, as provided by court order, by written agreement of the parties, or as directed by the board.]~~

~~[(w) In the initial session with each party, a licensee serving as a parenting facilitator must review the nature of the parenting facilitator's role with the parents to ensure that they understand the parenting facilitation process.]~~

~~[(x) A licensee serving as a parenting facilitator:]~~

~~[(1) must comply with all mandatory reporting requirements, including but not limited to Texas Family Code Chapter 261, concerning abuse or neglect of minors;]~~

~~[(2) must report to law enforcement or other authorities if they have reason to believe that any participant appears to be at serious risk to harm themselves or a third party;]~~

~~[(3) must maintain records necessary to support charges for services and expenses and must make a detailed accounting of those charges to the parties and their counsel if requested to do so;]~~

~~[(4) must maintain notes regarding all communications with the parties, the children, and other persons with whom they speak about the case; and]~~

~~[(5) must maintain records in a manner that is professional, legible, comprehensive, and inclusive of information and documents that relate to the parenting facilitation process and that support any recommendations made by the licensee.]~~

~~[(y) Records of a licensee serving as a parenting facilitator, are not mental health records and are not subject to the disclosure requirements of Texas Health and Safety Code, Chapter 611. At a minimum, records must be maintained for the period of time described in §681.41(r) of this title (relating to General Ethical Requirements), or as otherwise directed by the court.]~~

~~[(z) Records of a licensee serving as a parenting facilitator must be released on the request of either parent, as directed by the court, or as directed by the board.]~~

~~[(aa) Charges for parenting facilitation services must be based upon the actual time expended by the parenting facilitator or as directed by the written agreement of the parties and/or formal order of the court.]~~

~~[(bb) All fees and costs must be appropriately divided between the parties as directed by the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.]~~

~~[(cc) Fees may be disproportionately divided fees if one parent is disproportionately creating a need for services and if such a division is outlined in the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.]~~

~~[(dd) Services and activities for which a licensee serving as a parenting facilitator may charge include time spent interviewing parents, children and collateral sources of information; preparation of agreements, correspondence, and reports; review of records and correspondence; telephone and electronic communication; travel; court preparation; and appearances at hearings, depositions and meetings.]~~

~~[(ee) The minimum training for a licensee serving as a parent facilitator that is required by Texas Family Code, §153.6101(b)(2) is:]~~

~~[(1) eight hours of family violence dynamics training provided by a family violence service provider;]~~

~~[(2) 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court;]~~

~~[(3) 24 classroom hours of training in the fields of family dynamics, child development, family law; and]~~

~~[(4) 16 hours of training in the laws and board rules governing parent coordination and facilitation, and the multiple styles and procedures used in different models of service.]~~

~~[(ff) A licensee serving as a parent facilitator must decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the licensee's skill or expertise.]~~

~~[(gg) Since parenting facilitation services are addressed under multiple titles in different jurisdictions nationally, acceptability of training to meet the requirements of subsection (ee) of this section is based on functional skills taught during the training rather than the use of specific titles or names.]~~

~~§681.253 Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions~~

~~[(a) Licensees must comply with Texas Family Code, Chapter 107, Subchapters D, E, and F concerning Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions.]~~

~~[(b) A licensee who has completed a doctoral degree and at least 10 court-ordered child custody evaluations under the supervision of an individual qualified by Texas Family Code, Chapter 107 to perform child custody evaluations is qualified to conduct child custody evaluations under Texas Family Code, Chapter 107. All other licensees must comply with qualifications stipulated in Texas Family Code, Chapter 107.]~~

~~[(e) Any complaint relating to the outcome of a child custody evaluation or adoption evaluation conducted by a licensee must be reported to the court that ordered the evaluation. The board only reviews complaints regarding forensic evaluations addressing violation of specific board rules.]~~

~~[(d) Disclosure of confidential information in violation of Texas Family Code, §107.111 or §107.163 is grounds for disciplinary action, up to and including revocation of license, by the board.]~~

~~[(e) A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a divorce, child custody determination, disability claim, or criminal prosecution, must comply with all applicable board rules regardless of whether the licensee is acting as a factual witness or an expert.]~~

~~[(f) A licensee may not provide therapy and any other type of service, including but not limited to a child custody evaluation or parenting facilitation, in the same case, whether such services are delivered sequentially or simultaneously.]~~

~~[(g) Licensees may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation relating to the child under Texas Family Code, Subchapter D, Chapter 107.]~~

~~[(h) Licensees providing child custody evaluations or adoption evaluations must, prior to beginning the evaluation, in writing inform the parties of:]~~

~~[(1) The limitations on confidentiality in the evaluation process; and]~~

~~[(2) The basis of fees and costs and the method of payment, including any fees associated with postponement, cancellation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.]~~

~~[(i) A Licensed Professional Counselor Intern (LPC Intern) must not conduct child custody evaluations or adoption evaluations unless qualified by another professional license to provide such services.]~~

Rule: 461.1. References by Board Members.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.1. References by Board Members. Current members of the Board may not provide references for an applicant for any license granted by the Board. Current Board members may document any training and/or experience an applicant received under the Board member's supervision.~~

Rule: 461.2. Unofficial Statements and/or Decisions.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.2. Unofficial Statements and/or Decisions. Unofficial statements made by a Board member, a Board committee member, an advisory committee member, or staff member are not binding on the Board. No member or representative of the Board may make statements or decisions which are binding upon the Board in its deliberations upon ultimate issues presented for Board decision. Issues which ordinarily require Board decision include settlements of contested matters regarding applications, applicant qualifications and licensure, complaint resolution and/or legal matters involving modification, or Board rehearing of any prior decision rendered by the Board in performance of those statutory duties imposed by the provisions of the Psychologists' Licensing Act.~~

Rule: 461.3. Former Board Members

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.3. Former Board Members. A Board member whose term has expired and who has ceased to serve as a Board member will not be employed or utilized to represent the Board in any official capacity except to serve as a professional reviewer. A former Board member may not hold himself or herself out as an official or unofficial representative of the Board. Any such representations are not binding upon the Board in any way. Disclosure of confidential or privileged information obtained by a former Board member in his or her capacity as a Board member is unprofessional conduct and grounds for disciplinary action by the Board.~~

Rule: 461.4. Replacement and Duplicate Licenses.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.4. Replacement and Duplicate Licenses. Replacement and duplicate licenses may be obtained upon application and payment of the appropriate fee.~~

Rule: 461.5. Contents of License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.5. Contents of License. The license issued to a licensee will state the licensee's name, license number, and highest relevant academic degree held at the time of licensure. The annual renewal permit issued to a licensee will state the licensee's name and license number, but will not reflect any academic degrees.~~

Rule: 461.6. File Updates.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.6. File Updates. An applicant or licensee is responsible for keeping his or her professional file updated. All changes must be reported to the Board in writing within 90 days. Additionally, a name change request must be accompanied by a copy of a current driver's license, social security card, marriage license, divorce decree or court order stating name change.~~

Rule: 461.7. License Statuses.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.7. Licenses Statuses.~~

~~(a) Active Status. Any licensee with a license on active status may practice psychology pursuant to that license, subject to any restrictions imposed by the Board. Any license that is not on inactive, delinquent, retired, resigned, expired or revoked status is considered to be on active status. Active status is the only status under which a licensee may engage in the practice of psychology.~~

~~(b) Inactive Status.~~

~~(1) A licensee with an unrestricted active license may elect inactive status through the Board's online licensing system. A licensee who elects inactive status must return his or her current renewal certificate or permit for the license to the Board and pay the associated fee.~~

~~(2) A licensee with an inactive license is not required to comply with the professional development requirements set forth in Board rule 461.11 while his or her license is inactive.~~

~~(3) The inactive status period for a license shall coincide with the license renewal period. At the end of the renewal period, if the inactive status has not been renewed or the license returned to active status, the license will expire.~~

~~(4) In order to continue on inactive status, an inactive licensee must renew his or her inactive status each renewal period. Licensees may renew their inactive status through the Board's online licensing system by completing the online renewal requirements and paying the associated fee.~~

~~(5) An inactive license may be reactivated at any time by submitting a written request to return to active status to the Board's office. When reactivating a license, a licensee must pay the renewal fee~~

~~associated with the license. A license that has been reactivated is subject to the standard renewal schedule and requirements, including renewal and late fees. Notwithstanding the foregoing, a license that is reactivated within 60 days of its renewal date will be considered as having met all renewal requirements and will be renewed for the next renewal period.~~

~~(6) — Any licensee reactivating a license from inactive status must provide proof of completion of 40 hours of professional development meeting the requirements of Board rule §461.11 of this title (relating to Professional Development) before reactivation will occur. The professional development hours must have been obtained within the 24 month period preceding the request for reactivation.~~

~~(7) — A licensee wishing to reactivate his or her license that has been on inactive status for four years or more must take and pass the Jurisprudence Exam with the minimum acceptable score as set forth in Board rule §463.14 of this title (relating to Written Examinations) unless the licensee holds another license on active status with this Board.~~

~~(8) — A licensee with a pending complaint may not place a license on inactive status. If disciplinary action is taken against a licensee's inactive license, the licensee must reactivate the license until the terms of the disciplinary action or restricted status have been terminated. Failure to reactivate a license when required by this paragraph shall constitute grounds for further disciplinary action.~~

~~(c) — Delinquent Status. A licensee who fails to renew his/her license for any reason when required is considered to be on delinquent status. Any license delinquent for more than 12 consecutive months shall expire. The Board may sanction a delinquent licensee for violations of Board rules.~~

~~(d) — Restricted Status. Any license that is suspended, on probated suspension, or required to fulfill some requirements in a Board order is a restricted license.~~

~~(e) — Retirement Status. A licensee who is on active or inactive status with the Board may retire his/her license by notifying the Board in writing prior to the renewal date for the license. A licensee with a delinquent status may also retire his/her license by notifying the Board in writing prior to the license expiring. However, a licensee with a pending complaint or restricted license may not retire his/her license. A licensee who retires his/her license shall be reported to have retired in good standing.~~

~~(f) — Resignation Status. A licensee may resign only upon express agreement by the Board. A licensee who resigns shall be reported as:~~

~~(1) — Resigned in lieu of adjudication if permitted to resign while a complaint is pending; or~~

~~(2) — Resigned in lieu of further disciplinary action if permitted to resign while the license is subject to restriction.~~

~~(g) — Expired Status. A license that has been delinquent for twelve months or more or any inactive license that is not renewed or reactivated is considered to be expired.~~

~~(h) — Revoked Status. A license is revoked pursuant to Board Order requiring revocation as a disciplinary action.~~

Rule: 461.8. Remailing Fee

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.8. Remailing Fee. A license that has been mailed and not picked up by the addressee and which has been returned to the Board through no fault of the Board shall not be remailed until the licensee pays a remailing fee. See Chapter 473 of this title (relating to Fees).~~

Rule: 461.9. Conflicts of Interest and Recusals

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.9. Conflicts of Interest and Recusals.~~

- ~~(a) — A board member who has any personal or professional interest that might reasonably tend to influence the discharge of his or her duties in a matter pending before the board, shall disclose that conflict in an open meeting called and held in compliance with Chapter 551 of the Texas Government Code. However, if the required disclosure relates to a matter to be considered during a closed meeting, the board member shall disclose the conflict during the closed meeting. A board member may not vote or otherwise participate in any discussion or decision on a pending matter where the board member's personal or professional interest might reasonably tend to influence the discharge of his or her duties. Any conflict disclosed by a board member shall be entered in the minutes of a meeting or the certified agenda.~~
- ~~(b) — An individual who has any personal or professional interest that might reasonably tend to influence the discharge of his or her duties while serving on a committee, temporary suspension or disciplinary panel, or workgroup, shall disclose that conflict to the committee, panel, or workgroup, as well as the executive director. The individual may not vote or otherwise participate in any discussion or decision on a pending matter where the individual's personal or professional interest might reasonably tend to influence the discharge of his or her duties. Any conflict shall be entered in any minutes or notes kept by the committee, panel, or workgroup.~~
- ~~(c) — A board member may not vote or otherwise participate in any discussion or decision conducted during a meeting held in compliance with Chapter 551 of the Texas Government Code regarding a complaint, eligibility proceeding, or disciplinary action previously heard by the board member while serving on a temporary suspension or disciplinary panel. A board member who is disqualified under this subsection shall recuse himself or herself from any voting or discussions on the matter, and the recusal shall be entered in the minutes of the meeting or the certified agenda.~~

- (d) — ~~Any individual who is required to make a disclosure, recuse himself or herself, or is restricted from voting or participating in some manner under this rule, shall also refrain from improperly influencing or attempting to improperly influence the discussion or decision on a matter in which the individual is prohibited from participating.~~
- (e) — ~~A disclosure required by this rule must be made as soon as possible once an individual becomes aware of facts giving rise to a duty to take action under this rule. Any information received by a board member or agency staff that might reasonably lead one to believe that an individual has a duty to take action under this rule must be sent to the executive director, who shall then forward the information to the individual.~~
- (f) — ~~It is presumed that the judgment of a reasonable person who is subject to this rule would not be materially affected because the individual holds a license issued by this agency.~~

Rule: 461.10. License Required.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.10. License Required.~~

- ~~(a) A person may not engage in or represent that the person is engaged in the practice of psychology within this State, unless the person is licensed or been issued trainee status by the Board, or the person is exempt under §501.004 of the Psychologists' Licensing Act.~~
- ~~(b) A person is engaged in the practice of psychology within this State if any of the criteria set out in §501.003(b) of the Psychologists' Licensing Act occurs within this State, either in whole or in part.~~
- ~~(c) The activity or service of a post doctoral fellow or resident in psychology is exempt from the Board's jurisdiction pursuant to §501.004(a)(2) of the Psychologists' Licensing Act if all of the following criteria are met:
 - ~~(1) The person is enrolled in a formal post doctoral program that is:
 - ~~(A) accredited by the American Psychological Association (APA) or is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or~~
 - ~~(B) substantially equivalent to a program described in subparagraph (A) of this paragraph;~~~~
 - ~~(2) The activities or services take place under qualified supervision and are part of the formal post doctoral program; and~~
 - ~~(3) The person is designated as a psychological intern or trainee, or by another title that clearly indicates the person's training status.~~~~
- ~~(d) A formal post doctoral program which meets the following criteria will be considered substantially equivalent to an APA accredited or APPIC member program:~~

- ~~(1) — An organized experience with a planned and programmed sequence of supervised training experiences.~~
- ~~(2) — A designated psychologist responsible for the program who possesses expertise or competence in the program's area.~~
- ~~(3) — Two or more licensed psychologists on staff, at least one designated as supervisor with expertise in area of practice.~~
- ~~(4) — A minimum of 2 hours per week of face-to-face supervision.~~
- ~~(5) — A minimum of 2 additional hours per week of learning activities.~~
- ~~(6) — A minimum of 25% of the fellow's time is spent providing professional psychological services.~~
- ~~(7) — Admission requirements that require the applicant to complete all professional degree requirements and a pre-doc internship, which at a minimum meets Board requirements.~~
- ~~(8) — A requirement that participants use titles such as intern, resident, fellow, or trainee.~~
- ~~(9) — Documentation describing the goals, content, organization, entrance requirements, staff, mechanisms for evaluations (minimum 2 per year), and a statement that the program meets Texas' licensure requirements.~~
- ~~(10) — At a minimum, an informal due process procedure regarding deficiencies and grievances.~~
- ~~(11) — A written requirement for at least 1500 hours to be completed in not less than 9 months and not more than 24 months.~~

Rule: 461.11. Professional Development

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.11. Professional Development.~~

- ~~(a) Requirements. All licensees of the Board are obligated to continue their professional education by completing a minimum of 40 hours of professional development during each renewal period that they hold a license from the Board regardless of the number of separate licenses held by the licensee. Of these 40 hours, all licensees must complete a minimum of six hours of professional development in the areas of ethics, the Board's Rules of Conduct, or professional responsibility, and a minimum of six hours in the area of cultural diversity (these include, but are not limited to age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and social economic status).~~
- ~~(b) Relevancy. All professional development hours must be directly related to the practice of psychology. The Board shall make the determination as to whether the activity or publication claimed by the licensee is directly related to the practice of psychology. In order to establish relevancy to the practice of psychology, the Board may require a licensee to produce, in addition to the documentation required by subsection (d) of this section, course descriptions, conference catalogs and syllabi, or other material as warranted by the circumstances. The Board does not pre-approve professional development credit. The Board shall not allow professional development credit for personal psychotherapy, workshops for personal growth, the provision of services to professional associations by a licensee, foreign language courses, or computer training classes.~~
- ~~(c) Professional development.~~
 - ~~(1) Required hours may be obtained by participating in one or more of the following activities, provided that the specific activity may not be used for credit more than once:~~

- (A) ~~attendance or participation in a formal professional development activity for which professional development hours have been pre-assigned by a provider;~~
- (B) ~~teaching or attendance as an officially enrolled student in a graduate level course in psychology at a regionally accredited institution of higher education;~~
- (C) ~~presentation of a program or workshop; and~~
- (D) ~~authoring or editing publications.~~

(2) ~~Providers include:~~

- (A) ~~national, regional, state, or local psychological associations; public school districts; regional service centers for public school districts; state or federal agencies; or psychology programs, or counseling centers which host accredited psychology training programs, at regionally accredited institutions of higher education; or~~
- (B) ~~other formally organized groups providing professional development that is directly related to the practice of psychology. Examples of such providers include: public or private institutions, professional associations, and training institutes devoted to the study or practice of particular areas or fields of psychology; and professional associations relating to other mental health professions such as psychiatry, counseling, or social work.~~

(3) ~~At least half of the required 40 hours of professional development must be obtained from or endorsed by a provider listed in subsection (c)(2)(A) of this section.~~

(4) ~~Credits will be provided as follows:~~

- (A) ~~For attendance at formal professional development activities, the number of hours pre-assigned by the provider.~~
- (B) ~~For teaching or attendance of a graduate level psychology course, four hours per credit hour. A particular course may not be taught or attended by a licensee for professional development credit more than once.~~

- ~~(C) — For presentations of workshops or programs, three hours for each hour actually presented, for a maximum of six hours per year. A particular workshop or presentation topic may not be utilized for professional development credit more than once.~~
- ~~(D) — For publications, eight hours for authoring or co-authoring a book; six hours for editing a book; four hours for authoring a published article or book chapter. A maximum credit of eight hours for publication is permitted for any one year.~~
- ~~(5) — Professional development hours must have been obtained during the 24-month renewal period for which they are submitted. If the hours were obtained during the license renewal month and are not needed for compliance for that renewal period, they may be submitted the following renewal period to meet that period's professional development requirements. A professional development certificate may not be considered towards fulfilling the requirements for more than one renewal period.~~
- ~~(d) — Documentation. It is the responsibility of each licensee to maintain documentation of all professional development hours claimed under this rule and to provide this documentation upon request by the Board. Licensees shall maintain documentation of all professional development hours claimed for at least five years. The Board will accept as documentation of professional development:~~

 - ~~(1) — for hours received from attendance or participation in formal professional development activities, a certificate or other document containing the name of the sponsoring organization, the title of the activity, the number of pre-assigned professional development hours for the activity, and the name of the licensee claiming the hours;~~
 - ~~(2) — for hours received from attending college or university courses, official grade slips or transcripts issued by the institution of higher education must be submitted;~~
 - ~~(3) — for hours received for teaching college or university courses, documentation demonstrating that the licensee taught the course must be submitted;~~
 - ~~(4) — for presenters of professional development workshops or programs, copies of the official program announcement naming the~~

licensee as a presenter and an outline or syllabus of the contents of the program or workshop;

(5) — for authors or editors of publications, a copy of the article or table of contents or title page bearing the name of licensee as the author or editor;

(6) — for online or self study courses, a copy of the certificate of completion containing the name of the sponsoring organization, the title of the course, the number of pre-assigned professional development hours for the activity, and stating the licensee passed the examination given with the course.

(e) — ~~Electronic Declaration of Professional Development. All licensees must declare, on or before their renewal date, the professional development being submitted for the current renewal period through the Board's online renewal system. Licensees shall not submit documentation of professional development credits obtained unless requested to do so by the Board.~~

(f) — ~~Audit. The Board conducts two types of audits. Licensees shall comply with all Board requests for documentation and information concerning compliance with professional development and/or Board audits.~~

(1) — ~~Random audits. Each month, 10% of the licensees will be selected by an automated process for an audit of the licensee's compliance with the Board's professional development requirements. The Board will notify a licensee by mail of the audit. Upon receipt of an audit notification, a licensee must submit his or her professional development documentation through the Board's online renewal system, or by fax, email, or regular mail before a license will be renewed.~~

(2) — ~~Individualized audits. The Board will also conduct audits of a specific licensee's compliance with its professional development requirements at any time that the Board determines that there are grounds to believe that a licensee has not complied with the requirements of this rule. Upon receipt of notification of an individualized audit, the licensee must submit all requested documentation within the time period specified in the notification.~~

Rule: 461.12. Prohibition Against Dual Office Holding.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.12. Prohibition Against Dual Office Holding.~~

- ~~(a) Neither Board members nor the Executive Director may accept an offer to serve in another nonelective office unless they first obtain from the Board a finding that they have satisfied Article XVI, Section 40, of the Texas Constitution.~~
- ~~(b) The Board must make a written record of any finding under subsection (a). The finding must include any compensation that the Board member or Executive Director receives from holding the additional office, including salary, bonus, or per diem payment.~~

Rule: 461.13. Errors

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.13. Errors. If the Board discovers an error was made in processing an application, in examining an applicant, or in any of its other activities, the Board has the authority to correct this error.~~

Rule: 461.14. Conflicts Between Other Laws and Board Rules.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.14. Conflicts Between Other Laws and Board Rules. In the event of a conflict between a Board rule and the state or federal constitution; a state or federal statute; or a rule, guideline, or requirement promulgated by a federal office or agency, the state or federal law, guideline, or requirement shall control.~~

Rule: 461.15. Compliance with Act, Rules, Board Directives and Orders.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.15. Compliance with Act, Rules, Board Directives and Orders. Licensees must comply with the Act, Rules, Board Directives and Board Orders and Must cooperate with Board investigations as prescribed in §465.35 of this title. Failure to comply may subject the licensee to a Board-initiated complaint and disciplinary action.~~

Rule: 461.16. Filing of False or Misleading Information with the Board.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.16. Filing of False or Misleading Information with the Board.~~

- ~~(a) Applicants. Applicants are prohibited from providing misleading or false information in their applications and required documentation for licensure. For an infraction of this type, the Board may agree to process the application pursuant to an eligibility order. For a serious infraction of this type that could lead to licensure of an unqualified person, the Board may deny licensure.~~
- ~~(b) Licensees. The Board will file a complaint against a licensee for false or misleading statements, information, or omissions made in connection with an application for licensure or renewal. For an infraction that led to the licensure or renewal of an unqualified person, the Board may revoke the license or deny any future renewal of the license.~~

Rule: 461.17. Profile Information.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.17. Profile Information. The Board is required to establish a system whereby licensed psychologists will have public profile information maintained by the Board. The Board must collect a fee to be set by the Texas Online Authority beginning in 2002 for this system. Licensed psychologists must supply this information as a condition of annual renewal. This information may be supplied as a part of the online renewal process. The Board collects the following information as part of its profile information on licensed psychologists:~~

- ~~(1) The name of the licensed psychologist and address and telephone number of the psychologist's primary practice location;~~
- ~~(2) whether the license holder's patient, client, user, customer, or consumer service areas, as applicable, are accessible to persons with disabilities, as defined by federal law;~~
- ~~(3) the type of language translating services, including translating services for a person with impairment of hearing, that the psychologist provides for patients, clients, users, customers, or consumers, as applicable;~~
- ~~(4) if applicable, insurance information, including whether the psychologist participates in the state child health plan under Chapter 62, Health and Safety Code, or the Medicaid program;~~
- ~~(5) the education and training received by the psychologist, as required by the licensing entity;~~
- ~~(6) any specialty certification held by the psychologist;~~
- ~~(7) the number of years the person has practiced as a psychologist; and~~
- ~~(8) if applicable, any hospital affiliation of the psychologist.~~

Rule: 461.19. Petition for Rulemaking.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.19. Petition for Rulemaking. Any person may petition for rulemaking in accordance with §2001.021 of the Administrative Procedure Act by submitting a written request to the Board at least 60 days prior to a Board meeting setting forth or identifying the rule the petitioner wants the Board to adopt or change, the reasons why the petitioner believes the requested rulemaking is necessary, and attaching a copy of the proposed rule or any proposed changes with deletions crossed through and additions underlined.~~

Rule: 461.20. Agency Staff Training and Education.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.20. Agency Staff Training and Education.~~

- ~~(a) In accordance with the State Employee Training Act, Board staff may be permitted or required to attend training or education programs if those programs are related to the employee's duties or prospective duties, and the training materially aids effective administration of the Psychologists' Licensing Act or Board rules and serves an important public purpose.~~
- ~~(b) The Board's Executive Director shall be eligible to attend training and education programs, and shall determine which other employees will be permitted or required to attend training.~~
- ~~(c) Employees who receive training must utilize the training opportunity to prepare for technological and legal developments facing the Board, or to increase their work capabilities or competence.~~
- ~~(d) An employee, prior to receiving training for three or more months, during which the employee does not perform his or her regular duties, must enter into a written agreement with the Board to comply with the requirements of Tex. Gov't Code Ann. §656.103(a)(1). Employees who fail or refuse to enter into such an agreement shall not be permitted to attend training lasting three or more months.~~
- ~~(e) The Board shall pay the costs and expenses related to approved training in accordance with the State Employee Training Act, the Comptroller's rules and regulations, and the Board's own policies relating to employee reimbursement.~~

Rule: 461.21. Sick Leave Pool.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.21. Sick Leave Pool.~~

- ~~(a) The Board hereby establishes a sick leave pool to assist employees and their immediate families in dealing with catastrophic illness or injury that forces them to exhaust all accrued sick leave.~~
- ~~(b) The Board's sick leave pool shall be administered by the Executive Director in accordance with Chapter 661 of the Texas Government Code, the rules and regulations of the Employees Retirement System of Texas, and the Texas Human Resources Statutes Inventory manual published by the Texas State Auditor's Office.~~
- ~~(c) The Executive Director shall develop and prescribe procedures for the operation of the sick leave pool, and include such procedures in the Board's personnel manual.~~

Rule: 461.22. Agency Contracts and Purchasing.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.22. Agency Contracts and Purchasing.~~

- ~~(a) In accordance with Tex. Gov't Code Ann. §2155.076, the Board adopts by reference the rules of the Comptroller of Public Accounts regarding purchasing protest procedures set forth in 34 Tex. Admin. Code §20.384. All vendor protests under this rule must be submitted to the Board's Chief Financial Officer, who shall initiate a review of the protest. Any appeal to a determination of a protest by the Chief Financial Officer shall be to the Executive Director, who may elect to submit the appeal to the Board for final determination. The Board shall maintain all documentation on the purchasing process that is the subject of a protest or appeal in accordance with the Board's retention schedule.~~
- ~~(b) In accordance with Tex. Gov't Code Ann. §2156.005, the Board adopts by reference the rules of the Comptroller of Public Accounts regarding bid opening and tabulation set forth in 34 Tex. Admin. Code §20.35.~~
- ~~(c) In accordance with Tex. Gov't Code Ann. §2260.052, the Board adopts by reference the rules of the Office of the Attorney General in 1 Tex. Admin. Code Part 3, Chapter 68 (relating to Negotiation and Mediation of Certain Contract Disputes). The rules set forth a process to permit parties to structure a negotiation or mediation in a manner that is most appropriate for a particular dispute regardless of the contract's complexity, subject matter, dollar amount, or method and time of performance.~~
- ~~(d) In accordance with Tex. Gov't Code Ann. §2261.202, the Executive Director shall be responsible for monitoring agency contracts and for monitoring agency compliance with all applicable laws governing agency contracting. The Executive Director may delegate those duties necessary to carry out this responsibility to other agency staff who report directly to the Executive Director.~~

Rule: 461.35. Use of Historically Underutilized Businesses (HUBS).

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~461.35. Use of Historically Underutilized Businesses (HUBS). In accordance with Texas Government Code §2161.003, the Board adopts by reference the rules of the Comptroller of Public Accounts in 34 TAC Part 1, Chapter 20, Subchapter B (relating to Historically Underutilized Business Program).~~

Repeal of Chapter 463

Rule: 463.1. Types of Licensure.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.1. Types of Licensure. The Board accepts application for four types of license to practice psychology in the state of Texas:~~

- ~~(1) Licensed Psychological Associate. This is a license for qualified individuals with a graduate degree to practice psychology. Requirements for the psychological associate license are found in §463.8 of this title (relating to Licensure as a Psychological Associate) and §463.14 of this title (relating to Written Examinations).~~
- ~~(2) Licensed Specialist in School Psychology. This license is required by law for the practice of school psychology in the public schools of Texas. Requirements for the specialist in school psychology license are found in §463.9 of this title (relating to Licensure as a Specialist in School Psychology) and §463.14 of this title.~~
- ~~(3) Provisionally Licensed Psychologist. This is a doctoral level license to practice psychology under the supervision of a licensed psychologist. This license is a prerequisite for licensure as a psychologist. Requirements for provisionally licensed psychologist are found in §463.10 of this title (relating to Provisionally Licensed Psychologist) and §463.14 of this title.~~
- ~~(4) Licensed Psychologist. This is a doctoral level license for the independent practice of psychology. It is obtained by two means:
 - ~~(A) Obtaining provisional licensure as a psychologist and completing the required two years of supervised experience. Requirements for licensure as a psychologist are found in §463.11 of this title (relating to Licensed Psychologist), and §463.14 of this title.~~
 - ~~(B) Applying from a jurisdiction which holds a reciprocity agreement with Texas, meeting the Board's requirements~~~~

~~for licensure by reciprocity, and passing the Board's Jurisprudence Exam. Criteria for reciprocity jurisdictions are listed in §463.29 of this title (relating to Reciprocity Requirements). Requirements for licensure as a psychologist by means of reciprocity are found in §463.12 of this title (relating to Licensed Psychologist by Reciprocity) and §463.14 of this title.~~

Rule: 463.2. Application Process

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.2. Application Process. Applications for licensure are processed in the following manner:~~

- ~~(1) An individual must download, or otherwise obtain and complete the application packet for the type of licensure desired from the Board's website. No applicant can have more than one application pending before the Board at one time, unless the second application is to become a licensed specialist in school psychology.~~
- ~~(2) An applicant submits the completed application form, any other information required by the Board, and the application filing fee. An application which contains an incorrect fee amount or which does not include the information required to be submitted must be returned to the applicant. The responsibility of ensuring a complete application resides with the applicant. The application packet will contain a checklist which should be followed carefully. An incomplete application remains in the active file for 90 days following receipt by the Board, at the end of which time, if still incomplete, it is void. If licensure is sought again, a new application and filing fee must be submitted.~~
- ~~(3) Applications which contain all required information are reviewed by Board staff, and if necessary the Applications Committee of the Board, to determine if the applicants are eligible to sit for the examinations.~~
- ~~(4) Once an application is reviewed, the applicant receives a letter from the Board approving or denying the applicant to sit for the examinations. If the letter indicates the applicant is approved, the applicant may then submit an examination application and the appropriate fees for any required examinations.~~
- ~~(5) After sitting for examination(s), an applicant is informed in writing of the results of the examination(s). An applicant who has passed~~

~~the examination(s) is informed in writing that the applicant has been licensed.~~

- ~~(6) — If an applicant's application for licensure is denied, the applicant shall have 20 days from the date of denial to submit a written request to the Board for a hearing at the State Office of Administrative Hearings. The Board must receive the written request on or before the 20th day following the date of denial for the request to be timely made. If a timely request is made, the Board shall refer the contested case to the State Office of Administrative Hearings for a hearing. If a timely written request is not made, the denial is final.~~

Rule: 463.3. Applicants with Pending Complaints.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.3. Applicants with Pending Complaints. For any applicant against whom a complaint is filed with this Board, any final decision on the application will be held in abeyance until the Board has made a final determination on the complaint filed. If the complaint is not resolved within 180 days after an application has been held in abeyance, the Board shall review the complaint and make a determination as to whether to issue the license notwithstanding the complaint. In making the determination, the Board shall consider any relevant factor, including the potential for harm to the public if the license is granted, and the nature and severity of the allegations. The applicant will be permitted to take all required exams as scheduled but will not be licensed until approved by the Board.~~

Rule: 463.4. Applicants with Disabilities

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.4. Applicants with Disabilities.~~

- ~~(a) The Texas State Board of Examiners of Psychologists shall comply with applicable provisions of the Americans with Disabilities Act in its applications procedures by providing reasonable accommodations that do not violate the Board's Act and Rules.~~
- ~~(b) It is the responsibility of the individual applicant to inform the Board in advance of any reasonable accommodations needed during the application process, including any examinations conducted by the Board. Only requests which give the Board sufficient notice and opportunity to provide reasonable accommodations without disrupting the normal business of the agency shall be considered.~~
- ~~(c) Dyslexia. Dyslexia is defined by §51.970 of the Texas Education Code. The Board will provide reasonable accommodation to an applicant for licensure who complies with subsection (b) of this section and who provides proof of a diagnosis of dyslexia from a qualified practitioner. The practitioner should also identify the type of examination accommodation that is recommended for the applicant.~~

Rule: 463.5. Application File Requirements.

Action: Proposed Repeal

Comments: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.5. Application File Requirements. To be complete, an application file must contain whatever information or examination results the Board requires. Unless specifically stated otherwise by Board rule, all applications for licensure by the Board must contain:~~

- ~~(1) An application and required fee(s);~~
- ~~(2) Official transcripts indicating the date the degree required for licensure was awarded or conferred. Transcripts must be sent directly to the Board's office from all colleges/universities where post-baccalaureate course work was completed;~~
- ~~(3) Documentation that applicant has complied with Board Rule §463.14 of this title (relating to Written Examinations);~~
- ~~(4) A criminal history record check of the applicant from the Texas Department of Public Safety and the Federal Bureau of Investigation; and~~
- ~~(5) Supportive documentation and other materials the Board may deem necessary, including current employment arrangements and the name of all jurisdictions where the applicant currently holds a certificate or license to practice psychology.~~

Rule: 463.6. Regionally Accredited Institutions.

Action: Proposed Repeal

Comments: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.6. Regionally Accredited Institutions. A regionally accredited educational institution stated in §§501.255(a)(1)(A), 501.259, 501.004 and 501.260 of the Act is defined as an educational institution accredited by one of the following regional accrediting organizations:~~

- ~~(1) Southern Association of Colleges and Schools Commission on Colleges~~
- ~~(2) Western Association of Schools and Colleges, Senior College and University Commission~~
- ~~(3) Northwest Commission on Colleges and Universities~~
- ~~(4) Higher Learning Commission~~
- ~~(5) New England Association of Schools and Colleges~~
- ~~(6) Middle States Commission on Higher Education, also known as the Mid-Atlantic Region Commission on Higher Education.~~

Rule: 463.7. Criminal History Records Reports.

Action: Proposed Repeal

Comment:

~~463.7. Criminal History Records Reports.~~

- ~~(a) Before issuing a license, the Board will obtain or require the applicant to obtain a criminal history record report as determined by the Board.~~
- ~~(b) The Board will obtain updated criminal history record reports on all licensees quarterly from the Texas Department of Public Safety.~~
- ~~(c) The Board may obtain an updated criminal history record report at any time on a licensee alleged to have violated the Act or rules of the Board.~~
- ~~(d) Each licensee who was not required to submit a fingerprint criminal history record report as a condition of licensure must submit a fingerprint criminal history record report to the Board as a condition for renewal. This one-time renewal requirement begins for January 2015 renewals and will be phased in with approximately one-fourth of licensees required to submit their reports in the first calendar year and remaining licensees required to submit their reports in the following three calendar years as prescribed by the Board. A report must be received by the Board before the eligible licensee is allowed to renew the license.~~
- ~~(e) A licensee requesting their license be returned to active status from inactive status, must undergo a fingerprint criminal history check before their license will be returned to active status if the licensee has not submitted to a fingerprint criminal history check for the Board in the past. A report must be received by the Board before the license will be returned to active status.~~

Rule: 463.8. Licensed Psychological Associate

Action: Proposed Repeal

Comment:

~~463.8. Licensed Psychological Associate.~~

~~(a) Licensure Requirements. An applicant for licensure as a psychological associate must:~~

~~(1) hold a graduate degree in psychology from a regionally accredited institution of higher education;~~

~~(2) provide documentation of at least six (6) semester credit hours of practicum, internship or other structured experience within the applicant's graduate degree program under the supervision of a licensed psychologist;~~

~~(3) pass all examinations required by the board and meet each of the criteria listed in §501.255(a)(2)-(9) of the Occupations Code; and~~

~~(4) demonstrate graduate level coursework in each of the following areas:~~

~~(A) Psychological Foundations:~~

~~(i) the biological bases of behavior;~~

~~(ii) the acquired or learned bases of behavior, including learning, thinking, memory, motivation and emotion;~~

~~(iii) the social, cultural, and systemic bases of behavior;~~

~~(iv) the individual or unique bases of behavior, including personality theory, human development, and abnormal behavior;~~

~~(B) Research and Statistics:~~

~~(i) the methodology used to investigate questions and acquire knowledge in the practice of psychology;~~

~~(ii) coursework in research design and methodology, statistics, critical thinking, and scientific inquiry;~~

~~(C) — Applied Psychology:~~

- ~~(i) — the history, theory, and application of psychological principles;~~
- ~~(ii) — the application of psychological theories to individuals, families, and groups;~~

~~(D) — Assessment:~~

- ~~(i) — intellectual, personality, cognitive, physical, and emotional abilities, skills, interests, and aptitudes;~~
- ~~(ii) — socio-economic, including behavioral, adaptive, and cultural assessment;~~

~~(E) — Interventions:~~

- ~~(i) — the application of therapeutic techniques;~~
- ~~(ii) — behavior management;~~
- ~~(iii) — consultation; and~~

~~(F) — Scientific and Professional, Legal, and Ethical Issues.~~

~~(b) — Degree Requirements.~~

~~(1) — For purposes of this rule:~~

~~(A) — a graduate degree in psychology means the name of the candidate's major or program of studies contains the term "psychology;"~~

~~(B) — a specialist degree shall be treated as a graduate degree; and~~

~~(C) — one semester credit hour equals one and one-half quarter credit hours.~~

~~(2) — A degree utilized to meet the requirements of this rule must consist of at least sixty (60) semester credit hours, with no more than twelve (12) semester credit hours of practicum, internship, or structured experience being counted toward the total degree hour requirement.~~

~~(3) — Applicants must demonstrate proof of the graduate level coursework required in subsection (a)(4) of this section by identifying which courses or training listed on their transcripts satisfy the required areas of study. Applicants may be required to provide the board with an official course catalogue or description from their university or training program to verify whether a course meets the requirements of this rule.~~

~~(c) — Supervision Requirements.~~

~~(1) — A licensed psychological associate must practice under the supervision of a licensed psychologist and may not practice independently.~~

~~(2) — Notwithstanding subsection (c)(1) and subject to the limitations set out in subsection (c)(3) below, a licensed psychological associate may practice independently if:~~

~~(A) — the licensee can demonstrate at least 3,000 hours of post-graduate degree experience in the delivery of psychological services under the supervision of one or more licensed psychologists;~~

~~(B) — the supervised experience was obtained in not less than 24 consecutive months, but not more than 48 consecutive months, and in not more than three placements; and~~

~~(C) — the licensee submits an application for independent practice evidencing proof of the required supervised experience.~~

~~(3) — A licensed psychological associate meeting the requirements of subsection (c)(2) shall be approved for independent practice, but remains subject to all board rules, including Board rule §465.9 relating to competency.~~

~~(4) — Applicants may not utilize any supervised experience obtained from a psychologist with a restricted license or to whom they are related within the second degree of affinity or consanguinity to satisfy the requirements of this rule.~~

~~(5) — Applicants licensed as specialists in school psychology may utilize experience acquired under that license if the experience was supervised by a licensed psychologist.~~

~~(d) — Notwithstanding subsection (c)(3), an application for independent practice may be denied if a gap of more than two years exists between the~~

completion of the supervised experience required for independent practice and the date of application for independent practice. The rules governing the waiver of gaps related to supervised experience found in Board rule §463.11 shall govern any request for a waiver under this rule.

- (e) — The correct title for a person licensed under this rule shall be "licensed psychological associate" or "psychological associate."
- (f) — A licensed psychological associate authorized to practice independently under this rule must inform all patients and clients as part of the informed consent process, whether the licensee holds a master's, specialist or doctoral degree, and provide the patient with a current copy of any informational pamphlet or brochure published by the Board describing the differences between the levels of training and education received in master's, specialist, and doctoral degree programs. In lieu of providing each patient or client with a copy of the required pamphlet or brochure, licensees may publish in a conspicuous manner, the pamphlet or brochure on their website or provide a link to the pamphlet or brochure on the Board's website.
- (g) — Continuation of Prior Law.
 - (1) — Notwithstanding subsection (b)(1)(A), a person who begins a graduate program leading to a degree required by subsection (a)(1) before August 31, 2019, will be considered to have met the requirements of that subsection if the individual's degree is primarily psychological in nature. This subsection expires on August 31, 2021.
 - (2) — Notwithstanding subsection (b)(2), a person who begins a graduate program leading to a degree required by subsection (a)(1) before August 31, 2019, will be considered to have met the requirements of that subsection if the individual has completed 42 semester credit hours with at least 27 of those hours in psychology. Applicants with degrees consisting of less than 42 semester credit hours may utilize a maximum of 12 semester credit hours from another graduate degree program in psychology to achieve the total of 42 semester credit hours. This subsection expires on August 31, 2021.
- (h) — Notwithstanding subsections (c)(1)-(3), a licensed psychological associate with an active license as of September 1, 2017 who maintained an active license throughout the three years preceding that date, is considered to have met the requirements of subsection (c)(2) and may practice independently in accordance with subsection (c)(3).

Rule: ~~463.9. Licensed Specialist in School Psychology.~~

Action: ~~Proposed Repeal~~

Comment:

~~463.9. Licensed Specialist in School Psychology.~~

~~(a) Application Requirements. A completed application for licensure as a specialist in school psychology includes the following, in addition to the requirements set forth in Board rule §463.5 of this title (relating to Application File Requirements):~~

~~(1) Documentation of an appropriate graduate degree; and~~

~~(2) Documentation from the National School Psychologists' Certification Board sent directly to the Board indicating the applicant holds current valid certification as a Nationally Certified School Psychologist (NCSP); or documentation of the following sent directly to the Board:~~

~~(A) transcripts that verify that the applicant has met the requirements set forth in subsection (b) of this section;~~

~~(B) proof of the internship required by subsection (c) of this section if the applicant did not graduate from either a training program approved by the National Association of School Psychologists (NASP) or a training program in school psychology accredited by the American Psychological Association (APA); and~~

~~(C) the score that the applicant received on the School Psychology Examination sent directly from the Education Testing Service.~~

~~(b) Training Qualifications.~~

~~(1) Applicants for licensure as a specialist in school psychology who hold a valid NCSP certification or who have graduated from a training program approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association will be considered to have met the training and internship requirements of this rule.~~

~~(2) Applicants for licensure who do not hold a valid NCSP certification, or who did not graduate from a training program~~

~~approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association, must have completed a graduate degree in psychology from a regionally accredited academic institution. Applicants applying under this paragraph must have completed, either as part of their graduate degree program or after conferral of their graduate degree, at least 60 graduate level semester credit hours from a regionally accredited academic institution. A maximum of 12 internship hours may be counted toward the 60 hour requirement. For purposes of this rule, a graduate degree in psychology means the name of the candidate's major or program of studies is titled psychology. Applicants applying under this paragraph must submit evidence of graduate level coursework as follows:~~

~~(A) Psychological Foundations, including:~~

- ~~(i) biological bases of behavior;~~
- ~~(ii) human learning;~~
- ~~(iii) social bases of behavior;~~
- ~~(iv) multi-cultural bases of behavior;~~
- ~~(v) child or adolescent development;~~
- ~~(vi) psychopathology or exceptionalities;~~

~~(B) Research and Statistics;~~

~~(C) Educational Foundations, including any of the following:~~

- ~~(i) instructional design;~~
- ~~(ii) organization and operation of schools;~~
- ~~(iii) classroom management; or~~
- ~~(iv) educational administration;~~

~~(D) Assessment, including:~~

- ~~(i) psychoeducational assessment;~~

~~(ii) — socio-emotional, including behavioral and cultural, assessment;~~

~~(E) — Interventions, including:~~

~~(i) — counseling;~~

~~(ii) — behavior management;~~

~~(iii) — consultation;~~

~~(F) — Professional, Legal and Ethical Issues; and~~

~~(G) — A Practicum.~~

~~(c) — Completion of internship. Applicants must have completed an internship with a minimum of 1200 hours. The internship must also meet the following criteria:~~

~~(1) — At least 600 of the internship hours must have been completed in a public school.~~

~~(2) — The internship must be provided through a formal course of supervised study from a regionally accredited institution of higher education in which the applicant was enrolled; or the internship must have been obtained in accordance with Board rule §463.11(d)(1) and (d)(2)(C) of this title.~~

~~(3) — Any portion of an internship completed within a public school must be supervised by a Licensed Specialist in School Psychology, and any portion of an internship not completed within a public school must be supervised by a Licensed Psychologist.~~

~~(4) — No experience which is obtained from a supervisor who is related within the second degree of affinity or consanguinity to the supervisee may be utilized.~~

~~(5) — Unless authorized by the Board, supervised experience received from a supervisor practicing with a restricted license may not be utilized to satisfy the requirements of this rule.~~

~~(6) — Internship hours must be obtained in not more than two placements. A school district, consortium, and educational co-op are each considered one placement.~~

- ~~(7) — Internship hours must be obtained in not less than one or more than two academic years.~~
- ~~(8) — An individual completing an internship under this rule must be designated as an intern.~~
- ~~(9) — Interns must receive no less than two hours of supervision per week, with no more than half being group supervision. The amount of weekly supervision may be reduced, on a proportional basis, for interns working less than full-time.~~
- ~~(10) — The internship must include direct intern application of assessment, intervention, behavior management, and consultation, for children representing a range of ages, populations and needs.~~
- ~~(d) — Additional Requirements. In addition to the requirements of subsection (a) through (c) of this section, applicants for licensure as a specialist in school psychology must meet the requirements imposed under §501.255(a)(2)–(9) of the Psychologists' Licensing Act.~~
- ~~(e) — Examinations. Applicants must take the National School Psychology Examination and obtain at least the current cut-off score for the NCSP certification before applying for licensure as a specialist in school psychology. Following approval to sit for Board exams, an applicant must take and pass the Jurisprudence Examination within the time required by Board rule §463.19.~~
- ~~(f) — Trainee Status.~~
 - ~~(1) — An applicant for the specialist in school psychology license who has not yet passed the Board's Jurisprudence Examination, but who otherwise meets all licensing requirements under this rule, may practice in the public schools under the supervision of a Licensed Specialist in School Psychology, as a trainee for not more than one year.~~
 - ~~(2) — A trainee status letter shall be issued to an applicant upon proof of licensing eligibility, save and except proof of passage of the Board's Jurisprudence Examination.~~
 - ~~(3) — An individual with trainee status is subject to all applicable laws governing the practice of psychology.~~
 - ~~(4) — A trainee's status shall be suspended or revoked upon a showing of probable cause of a violation of the Board's rules or any law pertaining to the practice of psychology, and the individual may be~~

~~made the subject of an eligibility proceeding. The one year period for trainee status shall not be tolled by any suspension of the trainee status.~~

~~(5) Following official notification from the Board upon passage of the Jurisprudence Examination or the expiration of one year, whichever occurs first, an individual's trainee status shall terminate.~~

~~(6) An individual practicing under trainee status must be designated as a trainee.~~

~~(g) Provision of psychological services in the public schools by unlicensed individuals.~~

~~(1) An unlicensed individual may provide psychological services under supervision in the public schools if:~~

~~(A) the individual is enrolled in an internship, practicum or other site based training in a psychology program in a regionally accredited institution of higher education;~~

~~(B) the individual has completed an internship that meets the requirements of this rule, and has submitted an application for licensure as a Licensed Specialist in School Psychology to the Board that has not been denied, returned, or gone void under Board rule §463.2 of this title (relating to Application Process); or~~

~~(C) the individual has been issued a trainee status letter.~~

~~(2) An unlicensed individual may not provide psychological services in a private school setting unless the activities or services provided are exempt under Section 501.004 of the Psychologists' Licensing Act.~~

~~(3) An unlicensed individual may not engage in the practice of psychology under paragraph (1)(B) of this subsection for more than forty five days following receipt of the application by the Board.~~

~~(4) The authority to practice referenced in paragraphs (1)(B) and (C) of this subsection is limited to the first or initial application filed by an individual under this rule, but is not applicable to any subsequent applications filed under this rule. The Board will not~~

~~issue more than one trainee status letter to an individual, regardless of the number of applications filed.~~

Rule: 463.10. Provisionally Licensed Psychologists.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.10. Provisionally Licensed Psychologists.~~

~~(a) Application Requirements.~~

~~(1) An application for provisional licensure as a psychologist includes, in addition to the requirements set forth in Board rule §463.5 of this title (relating to Application File Requirements), an official transcript which indicates that the applicant has received a doctoral degree in psychology. Additionally, the applicant must meet the requirements of §501.255 of the Psychologists' Licensing Act.~~

~~(2) An application for provisional licensure as a psychologist may be filed up to sixty days prior to the date the applicant's doctoral degree is officially conferred, but remains subject to Board rule §463.2 of this title (relating to Application Process).~~

~~(b) Degree Requirements.~~

~~(1) The applicant's transcript must state that the applicant has a doctoral degree that designates a major in psychology. Additionally, the doctoral degree must be from a program accredited by the American Psychological Association or from a regionally accredited institution.~~

~~(2) The substantial equivalence of a doctoral degree received prior to January 1, 1979, based upon a program of studies whose content is primarily psychological means a doctoral degree based on a program which meets the following criteria:~~

~~(A) Post-baccalaureate program in a regionally accredited institution of higher learning. The program must have a minimum of 90 semester hours, not more than 12 of which are credit for doctoral dissertation and not more than six of which are credit for master's thesis.~~

- (B) — ~~The program, wherever it may be administratively housed, must be clearly identified and labeled. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.~~
- (C) — ~~The program must stand as a recognizable, coherent organizational entity within the institution. A program may be within a larger administrative unit, e.g., department, area, or school.~~
- (D) — ~~There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines. The program must have identifiable faculty and administrative heads who are psychologists responsible for the graduate program. Psychology faculty are individuals who are licensed or provisionally licensed or certified psychologists, or specialists of the American Board of Professional Psychology (ABPP), or hold a doctoral degree in psychology from a regionally accredited institution.~~
- (E) — ~~The program must be an integrated, organized sequence of studies, e.g., there must be identifiable curriculum tracks wherein course sequences are outlined for students.~~
- (F) — ~~The program must have an identifiable body of students who matriculated in the program.~~
- (G) — ~~The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology. The supervised field work or internship must have been a minimum of 1,500 supervised hours, obtained in not less than a 12-month period nor more than a 24-month period. Further, this requirement cannot have been obtained in more than two placements or agencies.~~
- (H) — ~~The curriculum shall encompass a minimum of two academic years of full-time graduate studies for those persons have enrolled in the doctoral degree program after completing the requirements for a master's degree. The curriculum shall encompass a minimum of four academic years of full-time graduate studies for those persons who have entered a doctoral program following the completion of a baccalaureate degree and prior to the awarding of a~~

master's degree. It is recognized that educational institutions vary in their definitions of full-time graduate studies. It is also recognized that institutions vary in their definitions of residency requirements for the doctoral degree.

(I) — The following curricular requirements must be met and demonstrated through appropriate course work:

(i) — Scientific and professional ethics related to the field of psychology.

(ii) — Research design and methodology, statistics.

(iii) — The applicant must demonstrate competence in each of the following substantive areas. The competence standard will be met by satisfactory completion at the B-level of a minimum of six graduate semester hours in each of the four content areas. It is recognized that some doctoral programs have developed special competency examinations in lieu of requiring students to complete course work in all core areas. Graduates of such programs who have not completed the necessary semester hours in these core areas must submit to the Board evidence of competency in each of the four core areas.

(I) — Biological basis of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, psycho-pharmacology.

(II) — Cognitive-affective basis of behavior: Learning, thinking, motivation, emotion.

(III) — Social basis of behavior: social psychology, group processes, organizational and system theory.

(IV) — Individual differences: personality theory, human development, abnormal psychology.

(J) — All educational programs which train persons who wish to be identified as psychologists will include course requirements in specialty areas. The applicant must

demonstrate a minimum of 24 hours in his/her designated specialty area.

(3) — Any person intending to apply for provisional licensure under the substantial equivalence clause must file with the Board an affidavit showing:

(A) — Courses meeting each of the requirements noted in paragraph (2) of this subsection verified by official transcripts;

(B) — Information regarding each of the instructors in the courses submitted as substantially equivalent;

(C) — Appropriate, published information from the university awarding the degree, demonstrating that in paragraph (2)(A)(J) of this subsection have been met.

(c) — An applicant for provisional licensure as a psychologist who is accredited by Certificate of Professional Qualification in Psychology (CPQ) or the National Register or who is a specialist of ABPP will have met the following requirements for provisional licensure: submission of an official transcript which indicates the date the doctoral degree in psychology was awarded or conferred, and submission of documentation of the passage of the national psychology examination at the doctoral level at the Texas cut-off score. All other requirements for provisional licensure must be met by these applicants. Additionally, these applicants must provide documentation sent directly from the qualifying entity to the Board office declaring that the applicant is a current member in the organization and has had no disciplinary action from any state or provincial health licensing board.

(d) — Trainee Status for Provisional Applicants.

(1) — An applicant for provisional licensure who has not yet passed the EPPP and Jurisprudence Examination, but who otherwise meets all provisional licensing requirements and is seeking to acquire the supervised experience required by §501.252(b)(2) of the Psychologists' Licensing Act, may practice under the supervision of a Licensed Psychologist as a provisional trainee for not more than two years.

(2) — A provisional trainee status letter shall be issued to an applicant upon proof of provisional licensing eligibility, save and except proof of passage of the EPPP and Jurisprudence Examination. However, a provisional trainee status letter will not be issued to an

~~applicant who was issued a provisional trainee status letter in connection with a prior application.~~

~~(3) — An individual with trainee status is subject to all applicable laws governing the practice of psychology.~~

~~(4) — A provisional trainee's status shall be suspended or revoked upon a showing of probable cause of a violation of the Board's rules or any law pertaining to the practice of psychology, and the individual may be made the subject of an eligibility proceeding. The two years period for provisional trainee status shall not be tolled by any suspension of the provisional trainee status.~~

~~(5) — Following official notification from the Board upon passage of the EPPP and Jurisprudence Examination, or the expiration of two years, whichever occurs first, an individual's provisional trainee status shall terminate.~~

Rule: 463.11. Licensed Psychologists.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.11. Licensed Psychologists.~~

~~(a) Application Requirements. An application for licensure as a psychologist includes, in addition to the requirements set forth in Board rule §463.5(1) of this title (relating to Application File Requirements):~~

~~(1) Documentation of active licensure as a provisionally licensed psychologist in good standing.~~

~~(2) Documentation of supervised experience from a licensed psychologist which satisfies the requirements of the Board. The formal internship should be documented by the Director of Internship Training when possible, but may be documented by a licensed psychologist with knowledge of the internship program and the applicant's participation in the internship program if the Director of Internship Training is unavailable.~~

~~(3) Documentation of licensure in other jurisdictions, including information on disciplinary action and pending complaints, sent directly to the Board.~~

~~(b) Degree Requirements. The degree requirements for licensure as a psychologist are the same as for provisional licensure as stated in Board rule §463.10 of this title (relating to Provisionally Licensed Psychologist).~~

~~(c) An applicant who is actively licensed as a psychologist in another jurisdiction, and who meets each of the following requirements, is considered to have met the requirements for supervised experience under this rule:~~

~~(1) The applicant must affirm that he or she has received at least 3,000 hours of supervised experience from a licensed psychologist in the jurisdiction where the supervision took place. At least half of those hours (a minimum of 1,500 hours) must have been completed within a formal internship, and the remaining one-half (a minimum~~

of 1,500 hours) must have been completed after the doctoral degree was conferred or completed; and

(2) — The applicant must submit a self query report from the National Practitioner Data Bank (NPDB) reflecting no disciplinary history, other than disciplinary history related to continuing education or professional development. The report must be submitted with the application in the sealed envelope in which it was received from the NPDB.

(d) — Supervised Experience. In order to qualify for licensure, an applicant must submit proof of a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have been received after obtaining either provisional trainee status or provisional licensure, and at least 1,750 of which must have been obtained through a formal internship that occurred within the applicant's doctoral degree program. A formal internship completed after the doctoral degree was conferred, but otherwise meeting the requirements of this rule, will be accepted for an applicant who received his or her doctoral degree prior to September 1, 2017. Following the conferral of a doctoral degree, 1,750 hours obtained or completed while employed in the delivery of psychological services in an exempt setting; while licensed or authorized to practice in another jurisdiction; or while practicing as a psychological associate or specialist in school psychology in this state may be substituted for the minimum of 1,750 hours of supervised experience required as a provisional trainee or provisionally licensed psychologist if the experience was obtained or completed under the supervision of a licensed psychologist. Post-doctoral supervised experience obtained prior to September 1, 2016 may also be used to satisfy, either in whole or in part, the post-doctoral supervised experience required by this subsection if the experience was obtained under the supervision of a licensed psychologist.

(1) — General. All supervised experience for licensure as a psychologist, including the formal internship, must meet the following requirements:

(A) — Each period of supervised experience must be obtained in not more than two placements, and in not more than 24 consecutive months.

(B) — Gaps Related to Supervised Experience.

(i) — Unless a waiver is granted by the Board, an application for a psychologist's license will be denied if:

- ~~(I) — a gap of more than seven years exists between the date an applicant's doctoral degree was officially conferred and the date the applicant began obtaining his or her hours of supervised experience under provisional trainee status or provisional licensure; or~~
 - ~~(II) — a gap of more than two years exists between the completion date of an applicant's hours of supervised experience acquired as a provisional trainee or provisionally licensed psychologist, and the date of application.~~
 - ~~(ii) — The Board shall grant a waiver upon a showing of good cause by the applicant. Good cause shall include, but is not limited to:~~
 - ~~(I) — proof of continued employment in the delivery of psychological services in an exempt setting as described in §501.004 of the Act, during any gap period;~~
 - ~~(II) — proof of annual professional development, which at a minimum meets the Board's professional development requirements, during any gap period;~~
 - ~~(III) — proof of enrollment in a course of study in a regionally accredited institution or training facility designed to prepare the individual for the profession of psychology during any gap period; or~~
 - ~~(IV) — proof of licensure as a psychologist and continued employment in the delivery of psychological services in another jurisdiction.~~
- ~~(C) — A formal internship with rotations, or one that is part of a consortium within a doctoral program, is considered to be one placement. A consortium is composed of multiple placements that have entered into a written agreement setting forth the responsibilities and financial commitments of each participating member, for the purpose of offering a well-rounded, unified psychology training program~~

~~whereby trainees work at multiple sites, but obtain training from one primary site with some experience at or exposure to aspects of the other sites that the primary site does not offer.~~

- ~~(D) — The supervised experience required by this rule must be obtained after official enrollment in a doctoral program.~~
- ~~(E) — All supervised experience must be received from a psychologist licensed at the time supervision is received.~~
- ~~(F) — The supervising psychologist must be trained in the area of supervision provided to the supervisee.~~
- ~~(G) — Experience obtained from a psychologist who is related within the second degree of affinity or consanguinity to the supervisee may not be utilized to satisfy the requirements of this rule.~~
- ~~(H) — All supervised experience obtained for the purpose of licensure must be conducted in accordance with all applicable Board rules.~~
- ~~(I) — Unless authorized by the Board, supervised experience received from a psychologist practicing with a restricted license may not be utilized to satisfy the requirements of this rule.~~
- ~~(J) — The supervisee shall be designated by a title that clearly indicates a supervisory licensing status such as "intern," "resident," "trainee," or "fellow." An individual who is a Provisionally Licensed Psychologist or a Licensed Psychological Associate may use his or her title so long as those receiving psychological services are clearly informed that the individual is under the supervision of a licensed psychologist. An individual who is a Licensed Specialist in School Psychology may use his or her title so long as the supervised experience takes place within a school, and those receiving psychological services are clearly informed that the individual is under the supervision of an individual who is licensed as a psychologist and specialist in school psychology. Use of a different job title is permitted only if authorized under §501.004 of the Psychologists' Licensing Act, or another Board rule.~~

(2) ~~Formal Internship. The formal internship hours must be satisfied by one of the following types of formal internships:~~

(A) ~~The successful completion of an internship program accredited by the American Psychological Association (APA) or Canadian Psychological Association (CPA), or which is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or~~

(B) ~~The successful completion of an organized internship meeting all of the following criteria:~~

(i) ~~It must constitute an organized training program which is designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose of the program must be to assure breadth and quality of training.~~

(ii) ~~The internship agency must have a clearly designated staff psychologist who is responsible for the integrity and quality of the training program and who is actively licensed/certified by the licensing board of the jurisdiction in which the internship takes place and who is present at the training facility for a minimum of 20 hours a week.~~

(iii) ~~The internship agency must have two or more full-time licensed psychologists on the staff as primary supervisors.~~

(iv) ~~Internship supervision must be provided by a staff member of the internship agency or by an affiliate of that agency who carries clinical responsibility for the cases being supervised.~~

(v) ~~The internship must provide training in a range of assessment and intervention activities conducted directly with patients/clients.~~

(vi) ~~At least 25% of trainee's time must be in direct patient/client contact.~~

- ~~(vii) — The internship must include a minimum of two hours per week of regularly scheduled formal, face-to-face individual supervision. There must also be at least four additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with psychology issues; co-therapy with a staff person including discussion; group supervision; additional individual supervision.~~
- ~~(viii) — Training must be post-clerkship, post-practicum and post-externship level.~~
- ~~(ix) — The internship agency must have a minimum of two full-time equivalent interns at the internship level of training during applicant's training period.~~
- ~~(x) — The internship agency must inform prospective interns about the goals and content of the internship, as well as the expectations for quantity and quality of trainee's work, including expected competencies; or~~
- ~~(C) — The successful completion of an organized internship program in a school district meeting the following criteria:~~
 - ~~(i) — The internship experience must be provided at or near the end of the formal training period.~~
 - ~~(ii) — The internship experience must require a minimum of 35 hours per week over a period of one academic year, or a minimum of 20 hours per week over a period of two consecutive academic years.~~
 - ~~(iii) — The internship experience must be consistent with a written plan and must meet the specific training objectives of the program.~~
 - ~~(iv) — The internship experience must occur in a setting appropriate to the specific training objectives of the program.~~
 - ~~(v) — At least 600 clock hours of the internship experience must occur in a school setting and must provide a balanced exposure to regular and special educational programs.~~

- (vi) — The internship experience must occur under conditions of appropriate supervision. Field based internship supervisors, for the purpose of the internship that takes place in a school setting, must be licensed as a psychologist and, if a separate credential is required to practice school psychology, must have a valid credential to provide psychology in the public schools. The portion of the internship which appropriately may take place in a non-school setting must be supervised by a psychologist.
- (vii) — Field based internship supervisors must be responsible for no more than two interns at any given time. University internship supervisors shall be responsible for no more than twelve interns at any given time.
- (viii) — Field based internship supervisors must provide at least two hours per week of direct supervision for each intern. University internship supervisors must maintain an ongoing relationship with field based internship supervisors and shall provide at least one field based contact per semester with each intern.
- (ix) — The internship site shall inform interns concerning the period of the internship and the training objectives of the program.
- (x) — The internship experience must be systematically evaluated in a manner consistent with the specific training objectives of the program.
- (xi) — The internship experience must be conducted in a manner consistent with the current legal ethical standards of the profession.
- (xii) — The internship agency must have a minimum of two full time equivalent interns at the internship level during the applicant's training period.
- (xiii) — The internship agency must have the availability of at least two full time equivalent psychologists as primary supervisors, at least one of whom is employed full time at the agency and is a school psychologist.

~~(3) — Industrial/Organizational Requirements. Individuals enrolled in an Industrial/Organizational doctoral degree program are exempt from the formal internship requirement but must complete 3,500 hours of supervised experience meeting the requirements of paragraph (1) of this subsection, at least 1,750 of which must have been received as a provisional trainee or provisionally licensed psychologist. Individuals who do not undergo a formal internship pursuant to this paragraph should note that Board rules prohibit a psychologist from practicing in an area in which they do not have sufficient training and experience, of which a formal internship is considered to be an integral requirement.~~

~~(4) — Licensure Following Retraining.~~

~~(A) — In order to qualify for licensure after undergoing retraining, an applicant must demonstrate the following:~~

~~(i) — conferral of a doctoral degree in psychology from a regionally accredited institution of higher education prior to undergoing retraining;~~

~~(ii) — completion of a formal, accredited post doctoral retraining program in psychology which included at least 1,750 hours in a formal internship;~~

~~(iii) — retraining within the two year period preceding the date of application for licensure under this rule, or continuous employment in the delivery of psychological services in an exempt setting as described in §501.004 of the Psychologists' Licensing Act since receiving their doctoral degree; and~~

~~(iv) — upon completion of the retraining program, at least 1,750 hours of supervised experience after obtaining either provisional trainee status or provisional licensure.~~

~~(B) — An applicant meeting the requirements of this subsection is considered to have met the requirements for supervised experience under this rule.~~

Rule: 463.12. Licensure by Reciprocity.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.12. Licensure by Reciprocity. An individual applying for licensure by reciprocity with this agency must meet each of the following criteria to be eligible for licensure by reciprocity:~~

-

- ~~(1) Submit an application and corresponding fee;~~
- ~~(2) Submit written verification that the applicant is actively licensed, certified, or registered in good standing in a jurisdiction with which Texas shares reciprocity. The written verification must be sent directly to the Board from the other jurisdiction;~~
- ~~(3) Submit a self-query report from the National Practitioner Data Bank (NPDB) reflecting no disciplinary history, other than disciplinary history related to continuing education or professional development. The report must be submitted with the application in the sealed envelope in which it was received from the NPDB;~~
- ~~(4) Pass the jurisprudence examination;~~
- ~~(5) Undergo a fingerprint based criminal history check which reflects no disqualifying criminal history; and~~
- ~~(6) Submit any other documentation or information requested in the application or which the Board may deem necessary in order to ensure the public's safety when processing the application.~~

463.14. Written Examinations

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.14. Written Examinations.~~

- ~~(a) Jurisprudence Examination. All applicants for licensure by the Board are required to pass the Jurisprudence Examination prior to licensure.~~
- ~~(b) Examination in School Psychology. Applicants for licensure as a specialist in school psychology must take the National School Psychology Examination administered by the Educational Testing Service and obtain at least the current cut-off score for the National Certified School Psychologist before applying for the Licensed Specialist in School Psychology.~~
- ~~(c) Examination for Professional Practice in Psychology. All applicants for licensure as a psychological associate, provisional licensure as a psychologist, or licensure as a psychologist are required to pass the Examination for Professional Practice in Psychology (EPPP) prior to the Board granting licenses.~~
- ~~(d) Applicants Having Previously Taken the EPPP. An applicant for licensure who has taken the EPPP either in the past or in another jurisdiction will not be required to retake the exam provided that:~~
 - ~~(1) the applicant's score satisfies the Board's current minimum acceptable score for licensure; and~~
 - ~~(2) the applicant can demonstrate that he/she has remained professionally involved in psychology; i.e., at least half-time professional employment and/or academic enrollment in a regionally accredited educational institution.~~
- ~~(e) Cutoff Scores for the EPPP. The minimum acceptable score for the EPPP is seventy percent (70%) of questions scored on the pencil and paper version of the test. For computer delivered EPPP examinations, the cutoff scaled scores is 500.~~

~~(f) Cutoff Scores for the Jurisprudence Examination. The minimum acceptable score for the jurisprudence examination for all licensure applicants is ninety percent (90%).~~

Rule: 463.16. Disclosure of Examination Information.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.16. Disclosure of Examination Information. It is a violation of Board rules for any applicant or licensee to disclose any information about the contents or administration of the Board's examinations that could affect the validity of the examination.~~

Rule: 463.17. Rescheduling of Examination Due to Religious Holy Day.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.17. Rescheduling of Examination Due to Religious Holy Day.~~

- ~~(a) Applicants wishing to observe a religious holy day on which their religious beliefs prevent them from taking an examination scheduled by the Board on that religious holy day will be allowed to take the examination on an alternate date.~~
- ~~(b) Applicants wishing to take an examination scheduled on a religious holy day on an alternate date must submit a written request to take the examination on an alternate date and state the religious holy day they wish to observe. Applicants must submit their written request prior to being scheduled for an examination.~~
- ~~(c) The Board may extend the time period for completing Board examinations set forth in Board rule §463.19 of this title (relating to Time Limit on Examination Failures and Passing Scores), as needed when scheduling an alternate examination date.~~

Rule: 463.18. Failing Written Examinations.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.18. Failing Written Examinations. Applicants who fail the written examinations are permitted to take them again by paying additional examination fees.~~

Rule: 463.19. Time Limit on Examination Failures and Passing Scores.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.19. Time Limit on Examination Failures and Passing Scores.~~

~~(a) Applicants must successfully pass all examinations required of them within two years from the date they are approved by the Board to sit for the exams.~~

~~(b) For the purpose of fulfilling application requirements for licensure, a passing score on the Board's Jurisprudence Examination is valid for only four years, unless the applicant has other active licensure with the Board at the time the application is received by the Board.~~

Rule: 463.20. Refunds and Transfer of Application and Examination Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.20. Refunds and Transfer of Application and Examination Fees.~~

~~(a) Application fees are non-refundable and non-transferable.~~

~~(b) The Jurisprudence Examination fee may be transferred to a subsequent examination when an applicant fails to timely complete the examination, if an applicant makes a written request for a transfer and provides the Board with documentation demonstrating good cause for why the applicant failed to timely complete the examination. Upon written request and showing of good cause, the Board shall excuse the applicant's failure to timely complete the examination, and allow the Board's portion of the examination fee to be applied, one time only, toward a subsequent examination. The Applicant, however, must pay that portion of the examination fee attributable to the third-party vendor administering the online examination, before they will be allowed to retake the examination.~~

Rule: 463.21. Board Members as Reviewers of Examination.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.21. Board Members as Reviewers of Examination. All Board members serve as reviewers of written examination materials and procedures unless a member is matriculated in a graduate program in psychology or is related within the second degree of affinity or within the second degree of consanguinity to a person who matriculated in a graduate program in psychology.~~

Rule: 463.22. Reinstatement of a License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.22. Reinstatement of a License.~~

- ~~(a) A person whose license to practice psychology has expired or been retired, revoked, or resigned, may apply for reinstatement of the license. A person seeking re-licensure must apply for reinstatement, rather than applying for a new license.~~
- ~~(b) An application for reinstatement shall be in writing and in the form prescribed by the Board.~~
- ~~(c) In the case of revocation or resignation, application for reinstatement shall not be made prior to one year after the effective date of the revocation or resignation or prior to any time period specified in the order of revocation or resignation.~~
- ~~(d) The Board may approve or deny an application for reinstatement, and in the case of a denial, the Board may also set a reasonable time period that must elapse before another application may be filed. The Board may also impose reasonable terms and conditions that an applicant must satisfy before reinstatement of an unrestricted license.~~
- ~~(e) A person seeking reinstatement of a license shall appear before the Board in person to answer any questions or address any concerns raised by his or her application if requested by a board member or the executive director. Failure to comply with this paragraph shall constitute grounds for denial of the application for reinstatement.~~
- ~~(f) An application for reinstatement of an expired, retired, revoked, or resigned license may be granted upon proof of each of the following:~~
 - ~~(1) payment of the application fee;~~
 - ~~(2) submission of a self query report from the National Practitioner Data Bank (NPDB). The report must be submitted with the~~

~~application in the sealed envelope in which it was received from the NPDB;~~

~~(3) — passage of the jurisprudence examination;~~

~~(4) — a fingerprint based criminal history check which reflects no disqualifying criminal history; and~~

~~(5) — submission of any other documentation or information requested in the application or which the Board may deem necessary in order to ensure the public's safety when processing the application.~~

~~(g) — An applicant seeking reinstatement of a license that has been retired or expired for five years or more or a license that has been revoked or resigned, must also demonstrate completion of at least forty hours of professional development within the twenty-four month period preceding the date of application. The professional development must meet the requirements of Board rule §461.11 of this title (relating to Professional Development).~~

~~(h) — The Board will evaluate each of the following criteria when considering reinstatement of an expired, revoked, or resigned license:~~

~~(1) — the circumstances surrounding the expiration, revocation, or resignation of the license;~~

~~(2) — the conduct of the applicant subsequent to the expiration, revocation, or resignation of the license;~~

~~(3) — the lapse of time since the expiration, revocation, or resignation of the license;~~

~~(4) — compliance with all terms and conditions imposed by the Board in any previous board order; and~~

~~(5) — the applicant's present qualification to practice psychology based on his or her history of psychology-related employment, service, education, or training, as well as his or her professional development in psychology since the expiration, revocation, or resignation of the license.~~

~~(i) — Notwithstanding time limits on original applications and examinations found elsewhere in Board rules, an applicant seeking reinstatement of a license must submit all required documentation and information, and successfully pass the jurisprudence examination within the 180 day time period specified by the Board. Failure to do so shall result in the~~

~~application for reinstatement expiring. The Board will send each applicant a letter specifying the 180 day time period upon receipt of a completed application for reinstatement and application fee.~~

Rule: 463.23. Criteria for Examination Consultants.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.23. Criteria for Examination Consultants. The Board may employ licensees to act as consultants for purposes of developing and administering the Jurisprudence Examination. All such consultants shall be considered as agents of the Board. To be eligible to serve as a consultant for an examination, an individual must:~~

- ~~(1) Be currently licensed by the Board and must have three years of experience in their area of expertise as a licensee;~~
- ~~(2) Not be related within the second degree of affinity (marriage) or consanguinity (blood relationship) to an individual who has applied to take the examination;~~
- ~~(3) Have no restrictions or pending complaints against his/her license; and~~
- ~~(4) Be approved by the Board.~~

Rule: 463.25. Foreign Graduates.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.25. Foreign Graduates:~~

- ~~(a) Prior to submitting an application for licensure, the potential applicant shall provide the Board with documents and evidence to establish that his/her formal education is equivalent to a masters or doctoral degree, as required by the Psychologists' Licensing Act and Rules and Regulations of the Board, granted by a United States university that is regionally accredited. The registrar of the University of Texas at Austin must certify that, after reviewing the required documentation, the degree is equivalent to a masters or doctoral degree granted from a regionally accredited educational institution. The potential applicant shall provide the Board with the following:~~
- ~~(1) An original or certified copy of a diploma or other certificate of graduation, which will be returned, and a photostatic copy of such a document, which shall be retained.~~
 - ~~(2) A transcript or comparable document of all course work completed.~~
 - ~~(3) A certified translation of all documents submitted in a language other than English.~~
 - ~~(4) Satisfactory evidence of supervised experience.~~
 - ~~(5) Evidence that the doctoral dissertation was primarily psychological in nature. In its discretion, the Board may require an applicant to file a copy of the dissertation itself.~~
 - ~~(6) A statement prepared by the applicant based on the documents referred to in this section, indicating the chronological sequence of studies and research. The format of this statement shall be as comparable as possible to a transcript issued by American universities.~~

~~(7) — A check or money order made payable to the University of Texas at Austin to cover the cost of reviewing the required documentation. The fee for this service is set by the University of Texas at Austin.~~

~~(b) — After receiving formal notification from the University of Texas at Austin that the potential applicant's formal education is equivalent to a masters or doctoral degree from a regionally accredited educational institution in the United States the Board will notify the potential applicant of the equivalency of his/her academic degree and will then accept a formal application for licensure.~~

Rule: 463.26. Health Service Provider in Psychology Specialty Certification.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.26. Health Service Provider in Psychology Specialty Certification.~~

- ~~(a) Health Service Provider (HSP) in Psychology is a specialty certification from the Board available to Texas licensed psychologists who are listed in the National Register of Health Service Providers. The National Register defines a health service provider as one who is trained and experienced in the delivery of direct, preventive, assessment, and therapeutic intervention services to individuals whose growth, adjustment, or functioning is impaired, or to individuals who otherwise seek services. This credential does not constitute a license to practice psychology under the Act. The Board will continue to recognize all individuals who were certified as HSP by the Board prior to January 1, 1998, and who remain in good standing.~~
- ~~(b) Requirements for this credential as of January 1, 1998, are:~~
 - ~~(1) Current, active licensure by the Board as a psychologist; and~~
 - ~~(2) Documentation submitted directly to the Board from the National Register of HSP in Psychology that the applicant is currently designated as an HSP with the National Register.~~
 - ~~(3) Active status as an HSP in psychology requires annual renewal and payment of an annual renewal fee. After one year, if the licensee fails to renew this specialty certification, it is void. To obtain specialty certification again, reapplication is required.~~

Rule: 463.27. Temporary License for Persons Licensed in Other States.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.27. Temporary License for Persons Licensed in Other States.~~

~~(a) A temporary license may be issued to an applicant seeking to practice in this state for a limited time and purpose, such as serving as an expert witness in court or assisting a patient with transitioning to a mental health practitioner in Texas. To be eligible for temporary licensure, an applicant must:~~

~~(1) submit a completed application for temporary licensure, setting forth a brief description of the type of psychological services to be provided;~~

~~(2) pay the application fee;~~

~~(3) submit proof that the applicant is actively licensed, certified, or registered as a psychologist or psychological associate by another jurisdiction having requirements substantially equal to those prescribed by the Psychologists' Licensing Act;~~

~~(4) submit documentation directly from the jurisdiction in which the applicant is licensed indicating that the applicant is in good standing with that jurisdiction;~~

~~(5) be supervised (sponsorship) by a psychologist licensed in this state; and~~

~~(6) provide documentation that the applicant has passed the Examination for Professional Practice of Psychology at the Texas cut-off for the type of temporary license sought.~~

~~(b) Substantial equivalency of another jurisdiction's requirements may be documented by the applicant providing a copy of the other jurisdiction's regulations with the pertinent sections highlighted to indicate training and exam requirements for a particular type of license. The material is then reviewed for substantial equivalency by the Board. An applicant need not~~

~~demonstrate substantial equivalency if the applicant is licensed in a jurisdiction with which the Board has reciprocity.~~

- ~~(c) — Applicants for temporary licensure who hold a current Certificate of Professional Qualification in Psychology, status as a National Health Service Provider, or designation as a specialist from the American Board of Professional Psychology may have documentation from the credentialing entity sent directly to the Board as compliance with and in lieu of subsection (a)(3) and (6) of this section.~~
- ~~(d) — For a psychologist practicing under a temporary license issued pursuant to this rule, the supervision required by subsection (a)(5) of this section shall consist of sponsorship by a psychologist licensed in this state. The sponsoring psychologist must be available for consultation with the temporary licensee, but otherwise has no supervisory responsibility for the temporary license holder or the services provided under the temporary license.~~
- ~~(e) — Applicants meeting the requirements for temporary licensure shall be granted a temporary license authorizing the delivery of psychological services for no more than thirty days. Upon utilization of the full thirty days, or the expiration of one year from the date of licensure, whichever occurs first, the temporary license shall expire.~~
- ~~(f) — A temporary licensee must submit written notification to the Board of the dates he or she intends to deliver psychological services in this state, at least 24 hours prior to the delivery of those services. Psychological services may not be provided in this state under a temporary license on any date not approved by the Board.~~
- ~~(g) — Temporary licensees are subject to all applicable laws governing the practice of psychology in this state, including the Psychologists' Licensing Act and Board rules.~~
- ~~(h) — An applicant for permanent licensure in this state is not eligible for temporary licensure. Upon receipt of an application for permanent licensure by a temporary license holder, any temporary license held by an applicant shall expire without further action or notice by the Board.~~
- ~~(i) — A temporary license holder may not apply for another temporary license until the expiration of one year from the date of issuance of their last temporary license, regardless of whether that license is active or expired.~~
- ~~(j) — A temporary license holder delivering psychological services while situated in this state, must display a copy of his or her temporary license, unless otherwise prohibited or it would be impractical to do so.~~

Rule: 463.28. Emergency Limited Temporary License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.28. Emergency Limited Temporary License.~~

~~(a) The Board may issue an emergency limited temporary license to practice psychology if:~~

~~(1) the Governor declares a disaster under §418.014 of the Government Code and issues a proclamation in accordance with §418.016 suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;~~

~~(2) the Executive Director determines that enacting these emergency licensing provisions are necessary in that disaster area; and~~

~~(3) the applicant meets the requirements set forth herein below.~~

~~(b) An emergency limited temporary license issued pursuant to this rule will expire thirty (30) days after issuance or upon termination of the state of disaster, whichever occurs first.~~

~~(c) An emergency limited temporary license issued pursuant to this rule is valid only for the practice of psychology within the disaster area designated by the governor.~~

~~(d) To be eligible for an emergency limited temporary license to practice psychology, an applicant must:~~

~~(1) submit an application on a board approved form;~~

~~(2) submit written verification that the applicant is actively licensed, certified, or registered as a psychologist, psychological associate, or specialist in school psychology and in good standing in another jurisdiction.~~

- (e) ~~For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on your out-of-state psychology license(s).~~
- (f) ~~An emergency limited temporary license may be renewed for an additional thirty (30) day period if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board approved form on or before the license expiration date.~~
- (g) ~~An individual practicing under an emergency limited temporary license must:~~
 - (1) ~~display a copy of his or her emergency limited temporary license in a conspicuous location when delivering psychological services; or provide written notification of the license number and instructions on how to verify the status of a license when obtaining informed consent;~~
 - (2) ~~provide notification to the public in a manner consistent with Board rule §469.2 of this title (relating to Public Complaint Notification Statement), that complaints can be filed with the Board; and~~
 - (3) ~~comply with all other applicable board rules.~~
- (h) ~~There will be no fee associated with the application, issuance, or renewal of an emergency limited temporary license.~~

Rule: 463.29. Reciprocity Agreements with Other Jurisdictions.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.29. Reciprocity Agreements with Other Jurisdictions. The Board may enter into reciprocal licensing agreements with other jurisdictions pursuant to §501.262 of the Psychologists' Licensing Act (the Act). In determining whether the requirements for licensure, certification, or registration in other jurisdictions are substantially equal to those prescribed by the Act, for the granting of licensure by reciprocity, the Board will consider the following:~~

- ~~(1) whether the jurisdiction's qualifications for licensure are substantially equal to the requirements for a comparable license under the Psychologists' Licensing Act;~~
- ~~(2) whether a jurisdiction will license an applicant who would be ineligible for licensure in Texas due to a criminal history;~~
- ~~(3) whether the jurisdiction's cut-off score on a mutually required examination meets or exceeds the Texas cut-off score; and~~
- ~~(4) whether the jurisdiction's supervised experience requirements for a particular license provide a measure of public protection, which at a minimum is substantially equal to the supervised experience requirements for a comparable license under the Psychologists' Licensing Act.~~

Rule: 463.30. Licensing for Military Service Members, Veterans and Spouses.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.30. Licensing for Military Service Members, Veterans and Spouses.~~

~~(a) Military Service Members, Veterans and Spouses.~~

-

~~(1) A license may be issued to a military service member, military veteran, or military spouse, as those terms are defined by Chapter 55, Occupations Code, provided that the following documentation is provided to the Board:~~

~~(A) if the applicant is a military spouse, proof of marriage to a military service member; and~~

~~(B) proof that the applicant holds a current license in another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state; or~~

~~(C) proof that within the five years preceding the application date, the spouse held the license in Texas.~~

~~(2) An applicant applying for licensure under paragraph (1) of this subsection must provide documentation from all other jurisdictions in which the applicant is licensed that indicate that the applicant has received no disciplinary action from those jurisdictions regarding a mental health license.~~

~~(3) As part of the application process, the Executive Director may waive any prerequisite for obtaining a license under this rule, other than paragraph (1)(B) and (C) of this subsection and the jurisprudence examination, if it is determined that the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought. When making this determination, the Executive Director must consult with the Board's Applications Committee and consider the committee's~~

input and recommendations. In the event the Executive Director does not follow a recommendation of the Applications Committee, he or she must submit a written explanation to the Applications Committee explaining why its recommendation was not followed. No waiver may be granted where a military service member or military veteran holds a license issued by another jurisdiction that has been restricted, or where the applicant has an unacceptable criminal history.

(4) — Alternative demonstrations of competency to meet the requirements for licensure. The following provisions provide alternative demonstrations of competency to the Board's licensing standards.

(A) — Licensed Specialist in School Psychology. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, and evidence of the required coursework or National Association of School Psychologists certification, and passage of the National School Psychology Examination. All other requirements for licensure are still required.

(B) — Licensed Psychological Associate. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, 450 internship hours, and passage of the Examination for Professional Practice in Psychology (EPPP) at the Texas cut-off. All other requirements for licensure are still required.

(C) — Provisionally Licensed Psychologist. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: submission of an official transcript, and passage of the EPPP at the Texas cut-off. All other requirements for licensure are still required.

(D) — Licensed Psychologist. An applicant who meets the requirements of paragraph (1) of this subsection is considered to have met the following requirements for this type of license: two years of supervised experience. All other requirements for licensure, including the requirements of this paragraph, are still required.

~~(5) — Determination of substantial equivalency for licensing requirements in another state. The applicant must provide to the Board proof that the state in which the applicant is licensed has standards for licensure that are substantially equivalent to the requirements of this Board for the applicable license type:~~

~~(A) — Licensed Specialist in School Psychology.~~

~~(i) — The completion of a training program in school psychology approved/accredited by the American Psychological Association or the National Association of School Psychologists or a master's degree in psychology with specific course work as set forth in Board rule §463.9 of this title (relating to Licensed Specialist in School Psychology); and~~

~~(ii) — Passage of the National School Psychology Examination.~~

~~(B) — Licensed Psychological Associate.~~

~~(i) — Graduate degree that is primarily psychological in nature and consisting of at least 42 semester credit hours in total with at least 27 semester credit hours in psychology courses;~~

~~_____ (ii) — Passage of the EPPP at the Texas cut-off score; and~~

~~(iii) — A minimum of 6 semester credit hours of practicum, internship, or experience in psychology, under the supervision of a licensed psychologist.~~

~~(C) — Provisionally Licensed Psychologist.~~

~~(i) — Doctoral degree in psychology; and~~

~~(ii) — Passage of the EPPP at the Texas cut-off score.~~

~~(D) — Licensed Psychologist.~~

~~(i) — Doctoral degree in psychology;~~

~~(ii) — Passage of the EPPP at the Texas cut-off score; and~~

~~(iii) — Two years or a minimum of 3,000 hours of supervised experience under a licensed psychologist.~~

~~(6) — Renewal of License Issued to Military Service Members, Veterans, and Spouses. A license issued pursuant to this rule shall remain active until the last day of the licensee's birth month following a period of one year from the date of issuance of the license, at which time it will be subject to all renewal requirements.~~

~~(b) — Applicants with Military Experience.~~

~~(1) — A military service member or military veteran, as defined by Chapter 55, Occupations Code, shall receive credit toward the following licensing requirements for verified military service, training, or education:~~

~~(A) — Licensed Specialist in School Psychology. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year, is considered to have met the following requirements for this type of license: a practicum and 600 internship hours. All other requirements for licensure are still required.~~

~~(B) — Licensed Psychological Associate. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year, is considered to have met the following requirements for this type of license: 1,750 hours of supervised experience. All other requirements for licensure are still required.~~

~~(C) — Licensed Psychologist. A military service member or military veteran who was engaged in or who has been engaged in the delivery of psychological services within the military, for at least one year following conferral of a doctoral degree, is considered to have met the following requirements for this type of license: one year or a minimum of 1,750 hours of supervised experience. All other requirements for licensure are still required.~~

~~(2) — A military service member or military veteran may not receive credit toward licensing requirements due to military service, training, or education if they hold a license issued by another~~

~~jurisdiction that has been restricted, or they have an unacceptable criminal history.~~

Rule: 463.31. Use of Other Mental Health Licensing During Practicum, Internship, or Supervised Experience.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~463.31. Use of Other Mental Health Licensing During Practicum, Internship, or Supervised Experience.~~

~~(a) An individual who holds a mental health license, other than one issued by this Board, may not obtain the required practicum, internship, or supervised experience required for a license with this Board while practicing under that license. During the documented hours of the practicum, internship, or supervised experience, the individual may provide psychological services only under the authority of a qualified supervisor of the practicum, internship, or supervised experience.~~

~~(b) An individual subject to subsection (a) must comply with the Psychologists' Licensing Act and all applicable Board rules regarding the use of appropriate titles.~~



**Draft Revised Rules (Applications and
Licensing) for
Texas State Board of Examiners of
Psychologists**

Table of Contents

Subchapter A – General Provisions	3
463.1. Regionally Accredited Educational Institutions.....	3
463.2. Reciprocity Agreements with Other Jurisdictions	4
463.3. Use of Other Mental Health License During Supervised Experience.....	5
Subchapter B – Licensing Requirements	6
463.8. Licensed Psychological Associate.	6
463.9. Licensed Specialist in School Psychology.....	10
463.10. Licensed Psychologists.	15
463.11. Supervised Experience Required for Licensure as a Psychologist.	20
463.12. Temporary License.	29
463.13. Licensure by Reciprocity.	31
Subchapter C – Licensing Provisions Related to Military Service Members, Veterans, and Military Spouses	33
463.20. Special Provisions Applying to Military Service Members, Veterans, and Spouses.....	33
Subchapter D – Specialty Certifications.....	35
463.25. Health Service Psychologist Specialty Certification.....	35
Subchapter E – Examinations.	36
463.30. Examinations Required for Licensure.....	36
463.31. Minimum Passing Scores for Examinations.	37
Subchapter F – Professional Development.	38
463.35. Professional Development.	38
Subchapter G – Criminal History and License Eligibility.....	41
463.40. Ineligibility Due to Criminal History.....	41

Subchapter A – General Provisions

- 463.1. **Regionally Accredited Educational Institutions.** Degrees required for licensure under Occupations Code, Chapter 501 must have been awarded or conferred by an institution of higher education accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education.

463.2. Reciprocity Agreements with Other Jurisdictions.

- (a) The Council may enter into reciprocal licensing agreements with other jurisdictions pursuant to §501.262 of the Psychologists' Licensing Act. In determining whether the requirements for licensure, certification, or registration in other jurisdictions are substantially equal to those prescribed by the Psychologists' Licensing Act, for the granting of licensure by reciprocity, the Council will consider the following:
 - (1) whether the jurisdiction's qualifications for licensure are substantially equal to the requirements for a comparable license under the Psychologists' Licensing Act;
 - (2) whether a jurisdiction will license an applicant who would be ineligible for licensure in Texas due to a criminal history;
 - (3) whether the jurisdiction's cut-off score on a mutually required examination meets or exceeds the Texas cut-off score; and
 - (4) whether the jurisdiction's supervised experience requirements for a particular license provide a measure of public protection, which at a minimum is substantially equal to the supervised experience requirements for a comparable license under the Psychologists' Licensing Act.

463.3. Use of Other Mental Health License During Supervised Experience.

- (a) An individual who holds a mental health license, other than one issued under Chapter 501, may not obtain the required practicum, internship, or supervised experience required for a license under Chapter 501 while practicing under that license.
- (b) An individual subject to subsection (a) must comply with the Psychologists' Licensing Act and all applicable Council rules regarding the use of appropriate titles.

Subchapter B – Licensing Requirements

463.8. Licensed Psychological Associate.

- (a) Licensure Requirements. An applicant for licensure as a psychological associate must:
 - (1) hold a graduate degree in psychology from a regionally accredited institution of higher education;
 - (2) provide documentation of at least six (6) semester credit hours of practicum, internship or other structured experience within the applicant's graduate degree program under the supervision of a licensed psychologist;
 - (3) pass all examinations required by the Council and meet each of the criteria listed in §501.255(a)(2)-(9) of the Occupations Code; and
 - (4) demonstrate graduate level coursework in each of the following areas:
 - (A) Psychological Foundations:
 - (i) the biological bases of behavior;
 - (ii) the acquired or learned bases of behavior, including learning, thinking, memory, motivation and emotion;
 - (iii) the social, cultural, and systemic bases of behavior;
 - (iv) the individual or unique bases of behavior, including personality theory, human development, and abnormal behavior;
 - (B) Research and Statistics:
 - (i) the methodology used to investigate questions and acquire knowledge in the practice of psychology;
 - (ii) coursework in research design and methodology, statistics, critical thinking, and scientific inquiry;
 - (C) Applied Psychology:

- (i) the history, theory, and application of psychological principles;
 - (ii) the application of psychological theories to individuals, families, and groups;
 - (D) Assessment:
 - (i) intellectual, personality, cognitive, physical, and emotional abilities, skills, interests, and aptitudes;
 - (ii) socio-economic, including behavioral, adaptive, and cultural assessment;
 - (E) Interventions:
 - (i) the application of therapeutic techniques;
 - (ii) behavior management;
 - (iii) consultation; and
 - (F) Scientific and Professional, Legal, and Ethical Issues.
- (b) Degree Requirements.
 - (1) For purposes of this rule:
 - (A) a graduate degree in psychology means the name of the candidate's major or program of studies contains the term "psychology;"
 - (B) a specialist degree shall be treated as a graduate degree; and
 - (C) one semester credit hour equals one and one-half quarter credit hours.
 - (2) A degree utilized to meet the requirements of this rule must consist of at least sixty (60) semester credit hours, with no more than twelve (12) semester credit hours of practicum, internship, or structured experience being counted toward the total degree hour requirement.
 - (3) Applicants must demonstrate proof of the graduate level coursework required in subsection (a)(4) of this section by identifying which courses or training listed on their transcripts

satisfy the required areas of study. Applicants may be required to provide the Council with an official course catalogue or description from their university or training program to verify whether a course meets the requirements of this rule.

(c) Supervision Requirements.

- (1) A licensed psychological associate must practice under the supervision of a licensed psychologist and may not practice independently.
- (2) Notwithstanding subsection (c)(1) of this section and subject to the limitations set out in subsection (c)(3) of this section, a licensed psychological associate may practice independently if:
 - (A) the licensee can demonstrate at least 3,000 hours of post-graduate degree experience in the delivery of psychological services under the supervision of one or more licensed psychologists;
 - (B) the supervised experience was obtained in not less than 24 consecutive months, but not more than 48 consecutive months, and in not more than three placements; and
 - (C) the licensee submits an application for independent practice evidencing proof of the required supervised experience.
- (3) A licensed psychological associate meeting the requirements of subsection (c)(2) of this section shall be approved for independent practice, but remains subject to all Council rules, including Council rule §465.9 relating to competency.
- (4) Applicants may not utilize any supervised experience obtained from a psychologist with a restricted license or to whom they are related within the second degree of affinity or consanguinity to satisfy the requirements of this rule.
- (5) Applicants licensed as specialists in school psychology may utilize experience acquired under that license if the experience was supervised by a licensed psychologist.

- (d) Notwithstanding subsection (c)(3) of this section, an application for independent practice may be denied if a gap of more than two years exists between the completion of the supervised experience required for independent practice and the date of application for independent practice. The rules governing the waiver of gaps related to supervised experience

found in Council rule §463.11 shall govern any request for a waiver under this rule.

- (e) The correct title for a person licensed under this rule shall be "licensed psychological associate" or "psychological associate."
- (f) A licensed psychological associate authorized to practice independently under this rule must inform all patients and clients as part of the informed consent process, whether the licensee holds a master's, specialist or doctoral degree, and provide the patient with a current copy of any informational pamphlet or brochure published by the Council describing the differences between the levels of training and education received in master's, specialist, and doctoral degree programs. In lieu of providing each patient or client with a copy of the required pamphlet or brochure, licensees may publish in a conspicuous manner, the pamphlet or brochure on their website or provide a link to the pamphlet or brochure on the Council's website.
- (g) Continuation of Prior Law.
 - (1) Notwithstanding subsection (b)(1)(A) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, will be considered to have met the requirements of that subsection if the individual's degree is primarily psychological in nature. This subsection expires on August 31, 2021.
 - (2) Notwithstanding subsection (b)(2) of this section, a person who begins a graduate program leading to a degree required by subsection (a)(1) of this section before August 31, 2019, will be considered to have met the requirements of that subsection if the individual has completed 42 semester credit hours with at least 27 of those hours in psychology. Applicants with degrees consisting of less than 42 semester credit hours may utilize a maximum of 12 semester credit hours from another graduate degree program in psychology to achieve the total of 42 semester credit hours. This subsection expires on August 31, 2021.

463.9. Licensed Specialist in School Psychology.

- (a) License Requirements. An applicant for licensure as a specialist in school psychology must:
 - (1) hold an appropriate graduate degree;
 - (2) provide proof of specific graduate level coursework
 - (3) provide proof of an acceptable internship;
 - (4) provide proof of passage of all examinations required by the Council; and
 - (5) meet the requirements imposed under §501.2525(a)(3) - (9) of the Occupations Code.
- (b) Applicants who hold active certification as a Nationally Certified School Psychologist (NCSP) are considered to have met all requirements for licensure under this rule except for passage of the Jurisprudence Examination. Applicants relying upon this subsection must provide the Council with their NCSP certification number.
- (c) Applicants who graduated from a training program approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association are considered to have met all training and internship requirements for licensure under this rule. Applicants relying upon this subsection must submit an official transcript indicating the degree and date the degree was awarded or conferred.
- (d) Applicants who do not hold active NCSP certification, or who did not graduate from a training program approved by the National Association of School Psychologists or accredited in School Psychology by the American Psychological Association, must have completed a graduate degree in psychology from a regionally accredited institution of higher education. Applicants applying under this paragraph must have completed, either as part of their graduate degree program or after conferral of their graduate degree, at least 60 graduate level semester credit hours from a regionally accredited institution of higher education. A maximum of 12 internship hours may be counted toward this requirement. For purposes of this rule, a graduate degree in psychology means the name of the candidate's major or program of studies is titled psychology.
- (e) Applicants applying under subsection (d) of this section must submit evidence of graduate level coursework as follows:

- (A) Psychological Foundations, including:
 - (i) biological bases of behavior;
 - (ii) human learning;
 - (iii) social bases of behavior;
 - (iv) multi-cultural bases of behavior;
 - (v) child or adolescent development;
 - (vi) psychopathology or exceptionalities;
- (B) Research and Statistics;
- (C) Educational Foundations, including any of the following:
 - (i) instructional design;
 - (ii) organization and operation of schools;
 - (iii) classroom management; or
 - (iv) educational administration;
- (D) Assessment, including:
 - (i) psychoeducational assessment;
 - (ii) socio-emotional, including behavioral and cultural, assessment;
- (E) Interventions, including:
 - (i) counseling;
 - (ii) behavior management;
 - (iii) consultation;
- (F) Professional, Legal and Ethical Issues; and
- (G) A Practicum.

- (f) Applicants applying under subsection (d) must have completed an internship with a minimum of 1200 hours and that meets the following criteria:
- (1) At least 600 of the internship hours must have been completed in a public school.
 - (2) The internship must be provided through a formal course of supervised study from a regionally accredited institution of higher education in which the applicant was enrolled; or the internship must have been obtained in accordance with Council rule §463.11(d)(1) and (d)(2)(C) of this section.
 - (3) Any portion of an internship completed within a public school must be supervised by a Licensed Specialist in School Psychology, and any portion of an internship not completed within a public school must be supervised by a Licensed Psychologist.
 - (4) No experience which is obtained from a supervisor who is related within the second degree of affinity or consanguinity to the supervisee may be utilized.
 - (5) Unless authorized by the Council, supervised experience received from a supervisor practicing with a restricted license may not be utilized to satisfy the requirements of this rule.
 - (6) Internship hours must be obtained in not more than two placements. A school district, consortium, and educational co-op are each considered one placement.
 - (7) Internship hours must be obtained in not less than one or more than two academic years.
 - (8) An individual completing an internship under this rule must be designated as an intern.
 - (9) Interns must receive no less than two hours of supervision per week, with no more than half being group supervision. The amount of weekly supervision may be reduced, on a proportional basis, for interns working less than full-time.
 - (10) The internship must include direct intern application of assessment, intervention, behavior management, and consultation, for children representing a range of ages, populations and needs.
- (g) Trainee Status.

- (1) An applicant for the specialist in school psychology license who has not yet passed the Jurisprudence Examination, but who otherwise meets all licensing requirements under this rule, may practice in the public schools under the supervision of a Licensed Specialist in School Psychology, as a trainee for not more than one year.
 - (2) A trainee status letter shall be issued to an applicant upon proof of licensing eligibility, save and except proof of passage of the Jurisprudence Examination.
 - (3) An individual with trainee status is subject to all applicable laws governing the practice of psychology.
 - (4) A trainee's status may be suspended or revoked upon a showing of a violation of the Council's rules or any law pertaining to the practice of psychology, and the individual may be made the subject of an eligibility proceeding. The one-year period for trainee status shall not be tolled by any suspension of the trainee status.
 - (5) Following official notification from the Council upon passage of the Jurisprudence Examination or the expiration of one year, whichever occurs first, an individual's trainee status shall terminate.
 - (6) An individual practicing under trainee status must be designated as a trainee.
- (h) Provision of psychological services in the public schools by unlicensed individuals.
- (1) An unlicensed individual may provide psychological services under supervision in the public schools if:
 - (A) the individual is enrolled in an internship, practicum or other site based training in a psychology program in a regionally accredited institution of higher education;
 - (B) the individual has completed an internship that meets the requirements of this rule, and has submitted an application for licensure as a Licensed Specialist in School Psychology to the Council that has not been denied or returned; or
 - (C) the individual has been issued a trainee status letter.

- (2) An unlicensed individual may not provide psychological services in a private school setting unless the activities or services provided are exempt under §501.004 of the Psychologists' Licensing Act.
- (3) An unlicensed individual may not engage in the practice of psychology under subsection (1)(B) of this section for more than forty-five days following receipt of the application by the Council.
- (4) The authority to practice referenced in subsection (1)(B) and (C) of this section is limited to the first or initial application filed by an individual under this rule, but is not applicable to any subsequent applications filed under this rule. The Council will not issue more than one trainee status letter to an individual, regardless of the number of applications filed.

463.10. Licensed Psychologists.

- (a) Licensure Requirements. An applicant for licensure as a psychologist must:
 - (1) hold a doctoral degree in psychology from a college or university accredited by a regional accrediting organization ~~recognized by the Council for Higher Education Accreditation or the United States Department of Education~~;
 - (2) pass all examinations required by the agency;
 - (3) submit documentation of supervised experience from a licensed psychologist which satisfies the requirements of Council rule 463.11; and
 - (4) meet all other requirements of §501.2525 of the Occupations Code.
- (b) Degree Requirements.
 - (1) For those applicants with a doctoral degree conferred on or after January 1, 1979, the transcript must state that the applicant has a doctoral degree that designates a major in psychology.
 - (2) For those applicants with a doctoral degree conferred prior to January 1, 1979, the transcript must reflect a doctoral degree that designates a major in psychology or the substantial equivalent of a doctoral degree in psychology in both subject matter and extent of training. A doctoral degree will be considered the substantial equivalent to a doctoral degree in psychology if the training program meets the following criteria:
 - (A) Post-baccalaureate program in a regionally accredited institution of higher learning. The program must have a minimum of 90 semester hours, not more than 12 of which are credit for doctoral dissertation and not more than six of which are credit for master's thesis.
 - (B) The program, wherever it may be administratively housed, must be clearly identified and labeled. Such a program must specify in pertinent institutional catalogs and brochures its intent to educate and train professional psychologists.

- (C) The program must stand as a recognizable, coherent organizational entity within the institution. A program may be within a larger administrative unit, e.g., department, area, or school.
- (D) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines. The program must have identifiable faculty and administrative heads who are psychologists responsible for the graduate program. Psychology faculty are individuals who are licensed or certified psychologists, or specialists of the American Board of Professional Psychology (ABPP), or hold a doctoral degree in psychology from a regionally accredited institution.
- (E) The program must be an integrated, organized sequence of studies, e.g., there must be identifiable curriculum tracks wherein course sequences are outlined for students.
- (F) The program must have an identifiable body of students who matriculated in the program.
- (G) The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology. The supervised field work or internship must have been a minimum of 1,500 supervised hours, obtained in not less than a 12 month period nor more than a 24 month period. Further, this requirement cannot have been obtained in more than two placements or agencies.
- (H) The curriculum shall encompass a minimum of two academic years of full-time graduate studies for those persons have enrolled in the doctoral degree program after completing the requirements for a master's degree. The curriculum shall encompass a minimum of four academic years of full-time graduate studies for those persons who have entered a doctoral program following the completion of a baccalaureate degree and prior to the awarding of a master's degree. It is recognized that educational institutions vary in their definitions of full-time graduate studies. It is also recognized that institutions vary in their definitions of residency requirements for the doctoral degree.

- (I) The following curricular requirements must be met and demonstrated through appropriate course work:
 - (i) Scientific and professional ethics related to the field of psychology.
 - (ii) Research design and methodology, statistics.
 - (iii) The applicant must demonstrate competence in each of the following substantive areas. The competence standard will be met by satisfactory completion at the B level of a minimum of six graduate semester hours in each of the four content areas. It is recognized that some doctoral programs have developed special competency examinations in lieu of requiring students to complete course work in all core areas. Graduates of such programs who have not completed the necessary semester hours in these core areas must submit to the Council evidence of competency in each of the four core areas.
 - (I) Biological basis of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, psycho-pharmacology.
 - (II) Cognitive-affective basis of behavior: learning, thinking, motivation, emotion.
 - (III) Social basis of behavior: social psychology, group processes, organizational and system theory.
 - (IV) Individual differences: personality theory, human development, abnormal psychology.
 - (J) All educational programs which train persons who wish to be identified as psychologists will include course requirements in specialty areas. The applicant must demonstrate a minimum of 24 hours in his/her designated specialty area.
- (3) Any person intending to apply for licensure under the substantial equivalence clause must file with the Council an affidavit showing:

- (A) Courses meeting each of the requirements noted in paragraph (2) of this subsection verified by official transcripts;
 - (B) Information regarding each of the instructors in the courses submitted as substantially equivalent;
 - (C) Appropriate, published information from the university awarding the degree, demonstrating that in subsection (2)(A)(i) of this section have been met.
- (c) An applicant who holds an active Certificate of Professional Qualification in Psychology (CPQ) is considered to have met all requirements for licensure under this rule except for passage of the Jurisprudence Examination. Applicants relying upon this subsection must request that documentation of their certification be sent directly to the Council from the Association of State and Provincial Psychology Boards (ASPPB), be submitted to the Council in the sealed envelope in which it was received by the applicant from ASPPB, or be submitted to the Council as directed by agency staff.
 - (d) An applicant who holds an active specialist certification with the American Board of Professional Psychology (ABPP) is considered to have met all requirements for licensure under this rule except for passage of the EPPP and Jurisprudence Examination. Applicants relying upon this subsection must request that documentation of their specialist certification be sent directly to the Council from ABPP, be submitted to the Council in the sealed envelope in which it was received by the applicant from ABPP, or be submitted to the Council as directed by agency staff.
 - (e) The requirement for documentation of supervised experience under this rule is waived for an applicant who is actively licensed as a doctoral-level psychologist in good standing and has been practicing psychology in another jurisdiction for at least five years or can affirm that ~~he or she~~ the applicant has received at least 3,000 hours of supervised experience from a licensed psychologist in the jurisdiction where the supervision took place. At least half of those hours (a minimum of 1,500 hours) must have been completed within a formal internship, and the remaining one-half (a minimum of 1,500 hours) must have been completed after the doctoral degree was conferred. Applicants relying upon this subsection must request that verification of their out-of-state licensure be sent directly to the Council from the other jurisdiction, be submitted to the Council in the sealed envelope in which it was received by the applicant from the other jurisdiction, or be submitted to the Council as directed by agency staff.
 - (f) Provisional License.

- (1) An applicant who has not yet passed the required examinations or is seeking to acquire the supervised experience required under Council rule 463.11 may practice under the supervision of a licensed psychologist as a provisionally licensed psychologist for not more than two years if the applicant meets all other licensing requirements.
- (2) A provisional license will be issued to an applicant upon proof of provisional license eligibility. However, a provisional license will not be issued to an applicant who was issued a provisional license in connection with a prior application.
- (3) A provisionally licensed psychologist is subject to all applicable laws governing the practice of psychology.
- (4) A provisionally licensed psychologist may be made the subject of an eligibility or disciplinary proceeding. The two-year period for provisional licensure shall not be tolled by any suspension of the provisional license.
- (5) A provisional license will expire after two years if the person does not qualify for licensure as a psychologist.

Supervised Experience Required for Licensure as a Psychologist.

- (a) Required Supervised Experience. In order to qualify for licensure, an applicant must submit proof of a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have been obtained through a formal internship that occurred within the applicant's doctoral degree program and at least 1,750 of which must have been received as a provisionally licensed psychologist (or under provisional trainee status under prior versions of this rule).
- (1) A formal internship completed after the doctoral degree was conferred, but otherwise meeting the requirements of this rule, will be accepted for an applicant whose doctoral degree was conferred prior to September 1, 2017.
 - (2) The formal internship must be documented by the Director of Internship Training. Alternatively, if the Director of Internship Training is unavailable, the formal internship may be documented by a licensed psychologist with knowledge of the internship program and the applicant's participation in the internship program.
 - (3) Following conferral of a doctoral degree, 1,750 hours obtained or completed while employed in the delivery of psychological services in an exempt setting, while licensed or authorized to practice in another jurisdiction, or while practicing as a psychological associate or specialist in school psychology in this state may be substituted for the minimum of 1,750 hours of supervised experience required as a provisionally licensed psychologist if the experience was obtained or completed under the supervision of a licensed psychologist. Post-doctoral supervised experience obtained without a provisional license or trainee status prior to September 1, 2016 may also be used to satisfy, either in whole or in part, the post-doctoral supervised experience required by this rule if the experience was obtained under the supervision of a licensed psychologist.
- (b) Satisfaction of Post-doctoral Supervised Experience with Doctoral Program Hours.
- (1) Applicants who received their doctoral degree from a degree program accredited by the American Psychological Association (APA), the Canadian Psychological Association (CPA), or a substantially equivalent degree program, may count the following hours of supervised experience completed as part of their degree program toward the required post-doctoral supervised experience:

- (A) hours in excess of 1,750 completed as part of the applicant's formal internship; and
- (B) practicum hours certified by the doctoral program training director (or the director's designee) as meeting the following criteria:
 - (i) the practicum training is overseen by the graduate training program and is an organized, sequential series of supervised experiences of increasing complexity, serving to prepare the student for internship and ultimately licensure;
 - (ii) the practicum training is governed by a written training plan between the student, the practicum training site, and the graduate training program. The training plan must describe how the trainee's time is allotted and assure the quality, breadth, and depth of the training experience through specification of the goals and objectives of the practicum, the methods of evaluation of the trainee's performance, and reference to jurisdictional regulations governing the supervisory experience. The plan must also include the nature of supervision, the identities of the supervisors, and the form and frequency of feedback from the agency supervisor to the training faculty. A copy of the plan must be provided to the Council upon request;
 - (iii) the supervising psychologist must be a member of the staff at the site where the practicum experience takes place;
 - (iv) at least 50% of the practicum hours must be in service-related activities, defined as treatment or intervention, assessment, interviews, report-writing, case presentations, and consultations.
 - (v) individual face-to-face supervision shall consist of no less than 25% of the time spent in service-related activities;
 - (vi) at least 25% of the practicum hours must be devoted to face-to-face patient or client contact;

- (vii) no more than 25% of the time spent in supervision may be provided by a licensed allied mental health professional or a psychology intern or post-doctoral fellow; and
 - (viii) the practicum must consist of a minimum of 15 hours of experience per week.
- (2) Applicants applying for licensure under the substantial equivalence clause must submit an affidavit or unsworn declaration from the program's training director or other designated leader familiar with the degree program, demonstrating the substantial equivalence of the applicant's degree program to an APA or CPA accredited program at the time of the conferral of applicant's degree.
- (3) An applicant and the affiant or declarant shall appear before the agency in person to answer any questions, produce supporting documentation, or address any concerns raised by the application if requested by a council or board member or the Executive Director. Failure to comply with this paragraph shall constitute grounds for denial of substantial equivalency under this rule.
- (c) General Requirements for Supervised Experience. All supervised experience for licensure as a psychologist, including the formal internship, must meet the following requirements:
 - (1) Each period of supervised experience must be obtained in not more than two placements, and in not more than 24 consecutive months.
 - (2) Gaps Related to Supervised Experience.
 - (A) Unless a waiver is granted by the Council, an application for a psychologist's license will be denied if a gap of more than seven years exists between the date an applicant's doctoral degree was officially conferred and the date of application.
 - ~~(i) a gap of more than seven years exists between the date an applicant's doctoral degree was officially conferred and the date the applicant began obtaining his or her hours of supervised experience under provisional licensure; or~~
 - ~~(ii) a gap of more than two years exists between the completion date of an applicant's hours of supervised experience acquired as a provisionally licensed psychologist, and the date of application.~~

(B) The Council shall grant a waiver upon a showing of good cause by the applicant. Good cause shall include, but is not limited to:

- (i) proof of continued employment in the delivery of psychological services in an exempt setting as described in §501.004 of the Psychologists' Licensing Act, during any gap period;
- (ii) proof of professional development, which at a minimum meets the Council's professional development requirements, during any gap period;
- (iii) proof of enrollment in a course of study in a regionally accredited institution or training facility designed to prepare the individual for the profession of psychology during any gap period; or
- (iv) proof of licensure as a psychologist and continued employment in the delivery of psychological services in another jurisdiction.

- (3) A formal internship with rotations, or one that is part of a consortium within a doctoral program, is considered to be one placement. A consortium is composed of multiple placements that have entered into a written agreement setting forth the responsibilities and financial commitments of each participating member, for the purpose of offering a well-rounded, unified psychology training program whereby trainees work at multiple sites, but obtain training from one primary site with some experience at or exposure to aspects of the other sites that the primary site does not offer.
- (4) The supervised experience required by this rule must be obtained after official enrollment in a doctoral program.
- (5) All supervised experience must be received from a psychologist licensed at the time supervision is received.
- (6) The supervising psychologist must be trained in the area of supervision provided to the supervisee.

- (7) Experience obtained from a psychologist who is related within the second degree of affinity or consanguinity to the supervisee may not be utilized to satisfy the requirements of this rule.
- (8) All supervised experience obtained for the purpose of licensure must be conducted in accordance with all applicable Council rules.
- (9) Unless authorized by the Council, supervised experience received from a psychologist practicing with a restricted license may not be utilized to satisfy the requirements of this rule.
- (10) The supervisee shall be designated by a title that clearly indicates a supervisory licensing status such as "intern," "resident," "trainee," or "fellow." An individual who is a Provisionally Licensed Psychologist or a Licensed Psychological Associate may use that ~~his or her~~ title so long as those receiving psychological services are clearly informed that the individual is under the supervision of a licensed psychologist. An individual who is a Licensed Specialist in School Psychology may use that ~~his or her~~ title so long as the supervised experience takes place within a school, and those receiving psychological services are clearly informed that the individual is under the supervision of an individual who is licensed as a psychologist and specialist in school psychology. Use of a different job title is permitted only if authorized under §501.004 of the Psychologists' Licensing Act, or another Council rule.

(d) Formal Internship Requirements. The formal internship hours must be satisfied by one of the following types of formal internships:

- (1) The successful completion of an internship program accredited by the American Psychological Association (APA) or Canadian Psychological Association (CPA), or which is a member of the Association of Psychology Postdoctoral and Internship Centers (APPIC); or
- (2) The successful completion of an organized internship meeting all of the following criteria:
 - (A) It must constitute an organized training program which is designed to provide the intern with a planned, programmed sequence of training experiences. The primary focus and purpose of the program must be to assure breadth and quality of training.
 - (B) The internship agency must have a clearly designated staff psychologist who is responsible for the integrity and quality

of the training program and who is actively licensed/certified by the licensing board of the jurisdiction in which the internship takes place and who is present at the training facility for a minimum of 20 hours a week.

- (C) The internship agency must have two or more full-time licensed psychologists on the staff as primary supervisors.
 - (D) Internship supervision must be provided by a staff member of the internship agency or by an affiliate of that agency who carries clinical responsibility for the cases being supervised.
 - (E) The internship must provide training in a range of assessment and intervention activities conducted directly with patients/clients.
 - (F) At least 25% of trainee's time must be in direct patient/client contact.
 - (G) The internship must include a minimum of two hours per week of regularly scheduled formal, face-to-face individual supervision. There must also be at least four additional hours per week in learning activities such as: case conferences involving a case in which the intern was actively involved; seminars dealing with psychology issues; co-therapy with a staff person including discussion; group supervision; additional individual supervision.
 - (H) Training must be post-clerkship, post-practicum and post-externship level.
 - (I) The internship agency must have a minimum of two full-time equivalent interns at the internship level of training during applicant's training period.
 - (J) The internship agency must inform prospective interns about the goals and content of the internship, as well as the expectations for quantity and quality of trainee's work, including expected competencies; or
- (3) The successful completion of an organized internship program in a school district meeting the following criteria:
- (A) The internship experience must be provided at or near the end of the formal training period.

- (B) The internship experience must require a minimum of 35 hours per week over a period of one academic year, or a minimum of 20 hours per week over a period of two consecutive academic years.
- (C) The internship experience must be consistent with a written plan and must meet the specific training objectives of the program.
- (D) The internship experience must occur in a setting appropriate to the specific training objectives of the program.
- (E) At least 600 clock hours of the internship experience must occur in a school setting and must provide a balanced exposure to regular and special educational programs.
- (F) The internship experience must occur under conditions of appropriate supervision. Field-based internship supervisors, for the purpose of the internship that takes place in a school setting, must be licensed as a psychologist and, if a separate credential is required to practice school psychology, must have a valid credential to provide psychology in the public schools. The portion of the internship which appropriately may take place in a non-school setting must be supervised by a psychologist.
- (G) Field-based internship supervisors must be responsible for no more than two interns at any given time. University internship supervisors shall be responsible for no more than twelve interns at any given time.
- (H) Field-based internship supervisors must provide at least two hours per week of direct supervision for each intern. University internship supervisors must maintain an ongoing relationship with field-based internship supervisors and shall provide at least one field-based contact per semester with each intern.
- (I) The internship site shall inform interns concerning the period of the internship and the training objectives of the program.

- (J) The internship experience must be systematically evaluated in a manner consistent with the specific training objectives of the program.
 - (K) The internship experience must be conducted in a manner consistent with the current legal-ethical standards of the profession.
 - (L) The internship agency must have a minimum of two full-time equivalent interns at the internship level during the applicant's training period.
 - (M) The internship agency must have the availability of at least two full-time equivalent psychologists as primary supervisors, at least one of whom is employed full time at the agency and is a school psychologist.
- (e) Industrial/Organizational Requirements. Individuals from an Industrial/Organizational doctoral degree program are exempt from the formal internship requirement but must complete a minimum of 3,500 hours of supervised experience, at least 1,750 of which must have taken place after conferral of the doctoral degree and in accordance with subsection (a) of this rule. Individuals who do not undergo a formal internship pursuant to this paragraph should note that Council rules prohibit a psychologist from practicing in an area in which they do not have sufficient training and experience, of which a formal internship is considered to be an integral requirement.
- (f) Licensure Following Respecialization.
- (1) In order to qualify for licensure after undergoing respecialization, an applicant must demonstrate the following:
 - (A) conferral of a doctoral degree in psychology from a regionally accredited institution of higher education prior to undergoing respecialization;
 - (B) completion of a formal post-doctoral respecialization program in psychology which included at least 1,750 hours in a formal internship;
 - (C) completion of respecialization within the two year period preceding the date of application for licensure under this rule; and

- (D) upon completion of the respecialization program, at least 1,750 hours of supervised experience obtained as a provisionally licensed psychologist (or under provisional trainee status under prior versions of this rule).
- (2) An applicant meeting the requirements of this subsection is considered to have met the requirements for supervised experience under this rule.
- (3) The rules governing the waiver of gaps related to supervised experience shall also govern any request for waiver of a gap following respecialization.

463.12. Temporary License.

- (a) A temporary license may be issued to an applicant seeking to practice in this state for a limited time and purpose, ~~such as serving as an expert witness in court or assisting a patient with transitioning to a mental health practitioner in Texas~~. To be eligible for temporary licensure, an applicant must:
- (1) submit a completed application for temporary licensure, setting forth a brief description of the type of psychological services to be provided;
 - (2) pay the application fee;
 - (3) submit proof that the applicant is actively licensed, certified, or registered as a psychologist or psychological associate by another jurisdiction having requirements substantially equal to those prescribed by the Psychologists' Licensing Act;
 - (4) submit documentation directly from the jurisdiction in which the applicant is licensed indicating that the applicant is in good standing with that jurisdiction;
 - (5) be supervised (sponsorship) by a psychologist licensed in this state; and
 - (6) provide documentation that the applicant has passed the Examination for Professional Practice of Psychology at the Texas cut-off for the type of temporary license sought.
- (b) Substantial equivalency of another jurisdiction's requirements may be documented by the applicant providing a copy of the other jurisdiction's regulations with the pertinent sections highlighted to indicate training and exam requirements for a particular type of license. The material is then reviewed for substantial equivalency by the Council. An applicant need not demonstrate substantial equivalency if the applicant is licensed in a jurisdiction with which the Council has reciprocity.
- (c) Applicants for temporary licensure who hold a current Certificate of Professional Qualification in Psychology, status as a National Health Service Provider, or designation as a specialist from the American Board of Professional Psychology may have documentation from the credentialing entity sent directly to the Council as compliance with and in lieu of subsection (a)(3) and (6) of this section.

- (d) For a psychologist practicing under a temporary license issued pursuant to this rule, the supervision required by subsection (a)(5) of this section shall consist of sponsorship by a psychologist licensed in this state. The sponsoring psychologist must be available for consultation with the temporary licensee, but otherwise has no supervisory responsibility for the temporary license holder or the services provided under the temporary license.
- (e) Applicants meeting the requirements for temporary licensure shall be granted a temporary license authorizing the delivery of psychological services for no more than thirty days. Upon utilization of the full thirty days, or the expiration of one year from the date of licensure, whichever occurs first, the temporary license shall expire.
- (f) A temporary licensee must submit written notification to the Council of the dates ~~he or she~~ the licensee intends to deliver psychological services in this state, at least 24 hours prior to the delivery of those services. Psychological services may not be provided in this state under a temporary license on any date not approved by the Council.
- (g) Temporary licensees are subject to all applicable laws governing the practice of psychology in this state, including the Psychologists' Licensing Act and Council rules.
- (h) An applicant for permanent licensure in this state is not eligible for temporary licensure. Upon receipt of an application for permanent licensure by a temporary license holder, any temporary license held by an applicant shall expire without further action or notice by the Council.
- (i) A temporary license holder may not ~~receive~~ apply for another temporary license until the expiration of one year from the date of issuance of their last temporary license, regardless of whether that license is active or expired.

463.13. **Licensure by Reciprocity.** An individual applying for licensure by reciprocity with this agency must meet each of the following criteria to be eligible for licensure by reciprocity:

- (1) Submit an application in the form prescribed by the Council and corresponding fee;
- (2) Submit verification that the applicant is actively licensed, certified, or registered in good standing in a jurisdiction with which Texas shares reciprocity;
- (3) Pass the jurisprudence examination; and
- (4) Submit any other documentation or information requested in the application or which the Council may deem necessary in order to ensure the public's safety when processing the application.

463.14 Remedy for Incomplete License Requirements

(a) An applicant who does not meet all of the prerequisites for a particular license under Chapter 501, may petition the Council for a waiver or modification of the prerequisite(s). An applicant may not petition for the waiver or modification of the degree required for the particular license sought or passage of the requisite examinations.

(b) The Council may waive or modify a prerequisite for obtaining a license under Chapter 501, subject to subsection (a), if:

1. the prerequisite is not mandated by federal law, the state constitution or statute, or 22 TAC Part 41; and
2. the failure or inability to meet the prerequisite was due to a disaster declared under Chapter 418 of the Government Code or under similar authority in another jurisdiction.

(c) The Council may approve or deny a petition under this rule, and in the case of approval, may condition the approval on reasonable terms and conditions designed to ensure the applicant's education, training, and experience provide reasonable assurance that the applicant has the knowledge and skills necessary for entry-level practice under the license sought.

Subchapter C – Licensing Provisions Related to Military Service
Members, Veterans, and Military Spouses.

463.20. Special Provisions Applying to Military Service Members, Veterans, and Spouses.

- (a) Substantial Equivalency Determination. In accordance with §55.004 of the Occupations Code, the licensing requirements for a license to practice psychology in another jurisdiction will be considered substantially equivalent to Texas' requirements if the other jurisdiction's requirements meet or exceed the following criteria:
 - (1) Licensed Specialist in School Psychology.
 - (A) The completion of a training program in school psychology that has been approved or accredited by the American Psychological Association or the National Association of School Psychologists, or completion of a master's degree in psychology with specific course work similar to the coursework required in the Council's rules; and
 - (B) Passage of the School Psychology Examination.
 - (2) Licensed Psychological Associate.
 - (A) A graduate degree that is primarily psychological in nature and consisting of at least 42 semester credit hours in total with at least 27 semester credit hours in psychology courses;
 - (B) Passage of the EPPP at the Texas cut-off score; and
 - (C) A minimum of 6 semester credit hours of practicum, internship, or experience in psychology, under the supervision of a licensed psychologist.
 - (3) Licensed Psychologist.
 - (A) A doctoral degree in psychology;
 - (B) Passage of the EPPP at the Texas cut-off score; and
 - (C) A minimum of two years or 3,000 hours of supervised experience under a licensed psychologist.

- (b) In accordance with §55.007 of the Occupations Code, an applicant who is a military service member or military veteran, as defined by Chapter 55, Occupations Code, shall receive credit toward the following licensing requirements for verified military service, training, or education:
- (1) Licensed Specialist in School Psychology. A military service member or military veteran who has delivered psychological services within the military for at least one year is considered to have met the following requirements for this type of license: a practicum and 600 internship hours.
 - (2) Licensed Psychological Associate. A military service member or military veteran who has delivered psychological services within the military for at least one year is considered to have met the following requirements for this type of license: ~~1,750 hours of supervised experience~~ 6 semester credit hours of supervised experience.
 - (3) Licensed Psychologist. A military service member or military veteran who has delivered psychological services within the military for at least one year, following conferral of a doctoral degree, is considered to have met the following requirements for this type of license: one year or 1,750 hours of supervised experience.
- (c) A military service member or military veteran may not receive credit toward licensing requirements due to military service, training, or education if they hold a license issued by another jurisdiction that has been restricted, or they have an unacceptable criminal history.

Subchapter D – Specialty Certifications.

463.25. Health Service Psychologist Specialty Certification.

- (a) Health Service Psychologist (HSP) is a specialty certification from the Council available to Texas licensed psychologists who are listed in the National Register of Health Service Psychologists.
- (b) The Council will issue the HSP specialty certification to actively licensed psychologists upon receipt of proof from the National Register that the licensee currently holds the HSP credential from the National Register.
- (c) The HSP specialty certification by the Council must be renewed in connection with the person's license. Renewal of the HSP specialty certification requires payment of the renewal fee established by the Council.

Subchapter E – Examinations.

463.30. Examinations Required for Licensure.

- (a) Jurisprudence Examination. All applicants for licensure are required to pass the Jurisprudence Examination prior to the Council granting a license.
- (b) School Psychology Examination. Applicants for licensure as a specialist in school psychology must take the School Psychology Examination administered by the Educational Testing Service before applying for licensure as a specialist in school psychology.
- (c) Examination for Professional Practice in Psychology (EPPP). All applicants for licensure as a psychological associate or psychologist are required to pass the EPPP prior to the Council granting a license. An applicant who has taken the EPPP either in the past or in another jurisdiction will not be required to retake the exam provided the applicant's score satisfies the Council's current minimum acceptable score for licensure.

463.31. Minimum Passing Scores for Examinations.

- (a) Cutoff Scores for the Examination for Professional Practice in Psychology. The minimum acceptable score for the Examination for Professional Practice in Psychology is 500 for computer based examinations and seventy percent (70%) for paper based versions of the test.
- (b) Cutoff Scores for the School Psychology Examination. The minimum acceptable score for the School Psychology Examination is the same as the current cut-off score for the Nationally Certified School Psychologist credential.
- (c) Cutoff Scores for the Jurisprudence Examination. The minimum acceptable score for the Jurisprudence Examination for all applicants is ninety percent (90%).

Subchapter F – Professional Development.

463.35. Professional Development.

- (a) Persons licensed under Chapter 501 are obligated to continue their professional education by completing a minimum of 40 hours of professional development during each renewal period they hold a license. At least 6 of these hours must be in ethics, the Council's rules, or professional responsibility, and another 6 or more hours must be in cultural diversity. Acceptable cultural diversity hours include, but are not limited to professional development regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and social economic status.
- (b) Relevancy. All professional development hours must be directly related to the practice of psychology. The Council will make the determination as to whether the activity or publication claimed by the licensee is directly related to the practice of psychology. In order to establish relevancy to the practice of psychology, the Council may require a licensee to produce course descriptions, conference catalogs and syllabi, or other material as warranted by the circumstances. A person may not claim professional development credit for personal psychotherapy, workshops for personal growth, the provision of services to professional associations by a licensee, foreign language courses, or computer training classes.
- (c) At least half of the professional development hours required by this rule must be obtained from or endorsed by a provider listed in subsection (f)(1) of this section.
- (d) The Council will not pre-approve professional development credit.
- (e) Approved Professional Development Activities. The Council will accept professional development hours obtained by participating in one or more of the following activities, provided that the specific activity may not be used for credit in more than one renewal period:
 - (1) attendance or participation in a formal professional development activity for which professional development hours have been pre-assigned by a provider;
 - (2) teaching or attendance as an officially enrolled student in a graduate level course in psychology at a regionally accredited institution of higher education;
 - (3) presentation of a program or workshop; and

- (4) authoring or editing publications.
- (f) Approved Professional Development Providers. The Council will accept professional development hours from the following providers:
 - (1) national, regional, state, or local psychological associations; public school districts; regional service centers for public school districts; state or federal agencies; or psychology programs, or counseling centers which host accredited psychology training programs, at regionally accredited institutions of higher education; and
 - (2) other formally organized groups providing professional development that is directly related to the practice of psychology. Examples of such providers include: public or private institutions, professional associations, and training institutes devoted to the study or practice of particular areas or fields of psychology; and professional associations relating to other mental health professions such as psychiatry, counseling, or social work.
- (g) Credit for professional development will be provided as follows:
 - (1) For attendance at formal professional development activities, the number of hours pre-assigned by the provider.
 - (2) For teaching or attendance of a graduate level psychology course, 4 hours per credit hour. A particular course may not be taught or attended by a licensee for professional development credit more than once.
 - (3) For presentations of workshops or programs, 3 hours for each hour actually presented, for a maximum of 6 hours per year.
 - (4) For publications, 8 hours for authoring or co-authoring a book; 6 hours for editing a book; 4 hours for authoring a published article or book chapter. A maximum credit of 8 hours for publication is permitted for any one year.
- (h) Professional development hours must have been obtained during the renewal period for which they are submitted and may not be utilized to fulfill the requirements for more than one renewal period. However, if the hours were obtained during the license renewal month and are not needed for compliance for that renewal period, they may be submitted the following renewal period to meet that period's professional development requirements.
- (i) The Council will accept as documentation of professional development:

- (1) for hours received from attendance or participation in formal professional development activities, a certificate or other document containing the name of the sponsoring organization, the title of the activity, the number of pre-assigned professional development hours for the activity, and the name of the licensee claiming the hours;
 - (2) for hours received from attending college or university courses, official grade slips or transcripts issued by the institution of higher education must be submitted;
 - (3) for hours received for teaching college or university courses, documentation demonstrating that the licensee taught the course must be submitted;
 - (4) for presenters of professional development workshops or programs, copies of the official program announcement naming the licensee as a presenter and an outline or syllabus of the contents of the program or workshop;
 - (5) for authors or editors of publications, a copy of the article or table of contents or title page bearing the name of licensee as the author or editor;
 - (6) for online or self-study courses, a copy of the certificate of completion containing the name of the sponsoring organization, the title of the course, the number of pre-assigned professional development hours for the activity, and stating the licensee passed the examination given with the course.
- (j) It is the responsibility of each licensee to maintain documentation of all professional development hours claimed under this rule and to provide this documentation upon request by the Council. Licensees shall maintain documentation of all professional development hours for 5 years following the renewal period in which those hours were utilized.

Subchapter G – Criminal History and License Eligibility

463.40. Ineligibility Due to Criminal History.

- (a) Those crimes which TSBEP considers directly related to the duties and responsibilities of a licensee are:
 - (1) offenses listed in Article 42A.054 of the Code of Criminal Procedure;
 - (2) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;
 - (3) any criminal violation of the Psychologists' Licensing Act;
 - (4) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;
 - (5) any criminal violation of Chapter 32, Subchapter B (Forgery) of the Penal Code;
 - (6) any criminal violation of §32.42 (Deceptive Business Practices), 32.43 (Commercial Bribery), §32.45 (Misapplication of Fiduciary Property), §32.46 (Securing Execution of Document by Deception), §32.50 (Deceptive Preparation and Marketing of Academic Product), §32.51 (Fraudulent Use or Possession of Identifying Information), §32.52 (Fraudulent, Substandard, or Fictitious Degree), or §32.53 (Exploitation of Child, Elderly or Disabled Individual) of the Penal Code;
 - (7) any criminal violation of Chapter 37 (Perjury and Other Falsification) of the Penal Code;
 - (8) any offense involving the failure to report abuse;
 - (9) any criminal violation of §38.12 (Barratry and Solicitation of Professional Employment) of the Penal Code;
 - (10) any criminal violation involving a federal health care program, including 42 USC §1320a-7b (Criminal penalties for acts involving Federal health care programs);
 - (11) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of psychology; and

- (12) any attempt, solicitation, or conspiracy to commit an offense listed herein.



**Draft Revised Rules (Rules of Practice) for
Texas State Board of Examiners of
Psychologist**

Table of Contents

465.1.	Definitions.....	3
465.2.	Supervision	6
465.3.	Providers of Psychological Services	10
465.4.	Employment of Unlicensed Individuals.....	11
465.5.	Practice of Psychology.....	12
465.6.	Public Statements, Advertisements, and Specialty Titles Solicitation, Use of Titles, and Business Names	13
465.7.	Display of License Renewal Permit.....	14
465.8.	Psychological Services Are Provided within a Defined Relationship	15
465.9.	Competency	16
465.10.	Basis for Scientific and Professional Judgments	17
465.11.	Informed Consent.....	18
465.12.	Privacy and Confidentiality	20
465.13.	Personal Problems, Conflicts and Dual Relationships.....	21
465.14.	Misuse of Licensee Services	22
465.15.	Fees and Financial Arrangements	23
465.16.	Evaluation, Assessment, Testing, and Reports	24
465.17.	Therapy and Counseling	26
465.18.	Forensic Services	27
465.20.	Research.....	32
465.21.	Termination of Services.....	33
465.22.	Psychological Records, Test Data and Test Materials	34
465.32.	Disposition and Assumption of the Practice of a Mental Health Professional	36
465.33.	Improper Sexual Conduct	37
465.34.	Providing Mental Health Services to Those Served by Others	39
465.35.	Duty to Report Rule Violations	40
465.37.	Compliance with All Applicable Laws.....	41
465.38.	Psychological Services for Schools	42

465.1. Definitions

The following terms have the following meanings:

- (1) "Adoption evaluation" has the same meaning as assigned by §107.151 of the Family Code.
- (2) "Child custody evaluation" has the same meaning as assigned by §107.101 of the Family Code.
- (3) "Client" means a party other than a patient seeking or obtaining psychological services, as defined in §501.003 of the Occupations Code, for a third-party with the goal of assisting or caring for that third-party or answering a referral question through the use of forensic psychological services.
- (4) "Dual Relationship" means a situation where a licensee and another individual have both a professional relationship and a non-professional relationship. Dual relationships include, but are not limited to, personal friendships, business or financial interactions, mutual club or social group activities, family or marital ties, or sexual relationships.
- (5) "Forensic evaluation" is an evaluation conducted, not for the purpose of providing mental health treatment, but rather at the request of a court, a federal, state, or local governmental entity, an attorney, or an administrative body including federal and private disability benefits providers to assist in addressing a forensic referral question.
- (6) "Forensic psychological services" are services involving courts, legal claims, or the legal system. The provision of forensic psychological services includes any and all preliminary and exploratory services, testing, assessments, evaluations, interviews, examinations, depositions, oral or written reports, live or recorded testimony, or any psychological service provided by a licensee concerning a current or potential legal case at the request of a party or potential party, an attorney for a party, or a court, or any other individual or entity, regardless of whether the licensee ultimately provides a report or testimony that is utilized in a legal proceeding. However, forensic psychological services do not include evaluations, proceedings, or hearings under the Individuals with Disabilities Education Improvement Act (IDEIA).
- (7) "Informed Consent" means the written documented consent of the patient, client and other recipients of psychological services only after the patient, client or other recipient has been made aware of the purpose and nature of the services to be provided, including but not limited to: the specific goals of the services; the procedures to be utilized to deliver the services; possible side effects of the services, if applicable; alternate choices to the services, if applicable; the possible duration of the services; the confidentiality of and relevant limits thereto; all financial policies, including the cost and methods of payment; and any provisions for cancellation of and payments for missed appointments; and right of access of the patient, client or other recipient to the records of the services.

(8) "Licensee" means a licensed psychologist, provisionally licensed psychologist, licensed psychological associate, licensed specialist in school psychology, applicants, and any other individual subject to the regulatory authority of the Council.

(9) "Patient" means a person who receives psychological services, as defined in §501.003 of the Occupations Code, regardless of whether the patient or a third-party pays for the services. The term "patient" shall include a client if the client is a person listed in §611.004(a)(4) or (5) of the Health and Safety Code who is acting on a patient's behalf. A person who is the subject of a forensic evaluation is not considered to be a patient under these rules.

(10) "Private school" has the same meaning as assigned by §5.001 of the Texas Education Code, but does not include a parent or legal guardian who chooses to homeschool a child.

(11) "Professional relationship" means a fiduciary relationship between a licensee and a patient or client involving communications and records deemed confidential under §611.002 of the Health and Safety Code. A professional relationship also exists where licensees are appointed by a court or other governmental body to answer a referral question through the use of forensic psychological services.

(12) "Professional standards" are determined by the Council through its rules.

(13) "Provision of psychological services" means any use by a licensee of ~~his or her~~ education or training in psychology in the context of a professional relationship. Psychological services include, but are not limited to, therapy, diagnosis, testing, assessments, evaluation, treatment, counseling, supervision, consultation, providing forensic opinions, rendering a professional opinion, or performing research, or teaching to an individual, group, or organization.

(14) "Public school" means any state agency, regional education service center, diploma program, school district, or charter school established or authorized under Title 2 of the Texas Education Code and supported in whole or in part by state tax funds.

(15) "Recognized member of the clergy," as used in §501.004(a)(4) of the Occupations Code, means a member in good standing of and accountable to a denomination, church, sect or religious organization recognized under the Internal Revenue Code, §501(c)(3).

(16) "Records" are any information, regardless of the format in which it is maintained, that can be used to document the delivery, progress or results of any psychological services including, but not limited to, data identifying a recipient of services, dates of services, types of services, informed consents, fees and fee schedules, assessments, treatment plans, consultations, session notes, reports, release forms obtained from a client or patient or any other individual or entity, and records concerning a patient or client obtained by the licensee from other sources.

(17) "Report" includes any written or oral assessment, recommendation, psychological diagnostic or evaluative statement containing the professional judgment or opinion of a licensee.

(18) "Supervision" refers to direct, systematic professional oversight of individuals who provide psychological services under the authority of a supervising licensee, whereby the supervisor has the responsibility and ability to monitor and control the psychological services provided to ensure the patient's or client's best interests are met and that the public is protected. In the context of psychological training and education, "supervision" also refers to the formal provision of systematic education and training for purposes of licensure or competency that serves to assist individuals with gaining experience and developing the skills necessary for licensure or competent practice in a particular practice area. However, the term "supervision" does not apply to the supervision of purely administrative or employment matters.

(19) "Test data" refers to a patient's specific answers to test materials, whether spoken or written, generated in drawings, or recorded by computers or other lab devices.

(20) "Test materials" refers to test booklets, forms, manuals, instruments, protocols, software, as well as test questions, and stimuli protected by federal copyright law and used in psychological testing to generate test results and test reports.

465.2. Supervision

(a) Supervision in General. The following rules apply to all supervisory relationships.

(1) A licensee is responsible for the supervision of all individuals that the licensee employs or utilizes to provide psychological services of any kind.

(2) Licensees ensure that their supervisees have legal authority to provide psychological services.

(3) Licensees delegate only those responsibilities that supervisees may legally and competently perform.

(4) All individuals who receive psychological services requiring informed consent from an individual under supervision must be informed in writing of the supervisory status of the individual and how the patient or client may contact the supervising licensee directly.

(5) All materials relating to the practice of psychology, upon which the supervisee's name or signature appears, must indicate the supervisory status of the supervisee. Supervisory status must be indicated by one of the following:

(A) Supervised by (name of supervising licensee);

(B) Under the supervision of (name of supervising licensee);

(C) The following persons are under the supervision of (name of supervising licensee); or

(D) Supervisee of (name of supervising licensee).

(6) Licensees provide an adequate level of supervision to all individuals under their supervision according to accepted professional standards given the experience, skill and training of the supervisee, the availability of other qualified licensees for consultation, and the type of psychological services being provided.

(7) Licensees utilize methods of supervision that enable the licensee to monitor all delegated services for legal, competent, and ethical performance. Methods of supervision may include synchronous remote or electronic means, ~~if:~~

~~—(A) adequate supervision can be provided through remote or electronic means;~~

~~—(B) the difficulties in providing full-time in-person supervision place an unreasonable burden on the delivery of psychological services; and~~

~~—(C) no more than fifty percent of the supervision takes place through remote or electronic means.~~

(8) Licensees must be competent to perform any psychological services being provided under their supervision.

(9) Licensees shall document their supervision activities in writing, including any remote or electronic supervision provided. Documentation shall include the dates, times, and length of supervision.

(10) Licensees may only supervise the number of supervisees for which they can provide adequate supervision.

(b) Supervision of Students, Interns, Residents, Fellows, and Trainees. The following rules apply to all supervisory relationships involving students, interns, residents, fellows, and trainees.

(1) Unlicensed individuals providing psychological services pursuant to §§501.004(a)(2), 501.2525(a)(2)(A), or 501.260(b)(3) of the Occupations Code must be under the supervision of a qualified supervising licensee at all times.

(2) Supervision must be provided by a qualified supervising licensee before it will be accepted for licensure purposes.

(3) A licensee practicing under a restricted status license is not qualified to, and shall not provide supervision for a person seeking to fulfill internship or practicum requirements or a person seeking licensure under the Psychologists' Licensing Act, regardless of the setting in which the supervision takes place, unless authorized to do so by the Council. A licensee shall inform all supervisees of any disciplinary order restricting the licensee's license and assist the supervisees with finding appropriate alternate supervision.

(4) A supervisor must document in writing a supervisee's performance during a practicum, internship, or period of supervised experience required for licensure. The supervisor must provide this documentation to the supervisee.

(5) A supervisor may allow a supervisee, as part of a required practicum, internship, or period of supervised experience required for licensure under Chapter 501, to supervise others in the delivery of psychological services.

(6) Licensees may not supervise an individual to whom they are related within the second degree of affinity or consanguinity.

(c) Supervision of Provisionally Licensed Psychologists and Licensed Psychological Associates. The following rules apply to all supervisory relationships involving Provisionally Licensed Psychologists and Licensed Psychological Associates.

~~—(1) Provisionally Licensed Psychologists must be under the supervision of a Licensed Psychologist and may not engage in independent practice.~~

~~—(2) A Provisionally Licensed Psychologist who is licensed in another state to independently practice psychology and is in good standing in that state, and who has applied for licensure as a psychologist may during the time that the Board is processing the applicant's application for licensure as a psychologist, practice psychology without supervision. However, upon notification from the Board that an applicant has not met the qualifications for licensure as a psychologist, the provisionally licensed psychologists must obtain supervision within 30 days in order to continue to practice.~~

(1) Provisionally Licensed Psychologists must be under the supervision of a Licensed Psychologist and may not engage in independent practice unless the provisional licensee is licensed in another state to independently practice psychology and is in good standing in that state.

(2) A Provisionally Licensed Psychologist may, as part of a period of supervised experience required for licensure as a psychologist, supervise others in the delivery of psychological services.

(3) A supervisor must provide at least one hour of individual supervision per week. A supervisor may reduce the amount of weekly supervision on a proportional basis for supervisees working less than full-time.

(d) Supervision of Licensed Specialists in School Psychology interns and trainees. The following rules apply to all supervisory relationships involving Licensed Specialists in School Psychology, as well as all interns and trainees working toward licensure as a specialist in school psychology.

(1) A supervisor must provide an LSSP trainee with at least one hour of supervision per week, with no more than half being group supervision. A supervisor may reduce the amount of weekly supervision on a proportional basis for trainees working less than full-time.

(2) Supervision within the public schools may only be provided by a Licensed Specialist in School Psychology who has a minimum of 3 years of experience providing psychological services within the public school system without supervision. To qualify, a licensee must be able to show proof of their license, credential, or authority to provide unsupervised school psychological services in the jurisdiction where those services were provided, along with documentation from the public school(s) evidencing delivery of those services.

(3) Supervisors must sign educational documents completed for students by the supervisee, including student evaluation reports, or similar professional reports to consumers, other professionals, or other audiences. It is not a violation of this rule if supervisors do not sign documents completed by a committee reflecting the deliberations of an educational meeting for an individual student which the supervisee attended and participated in as part of the legal proceedings required by federal and state education laws, unless the supervisor also attended and participated in such meeting.

(4) Supervisors shall document all supervision sessions. This documentation must include information about the duration of sessions, as well as the focus of discussion or training. The documentation must also include information regarding:

(A) any contracts or service agreements between the public school district and university school psychology training program;

(B) any contracts or service agreements between the public school district and the supervisee;

(C) the supervisee's professional liability insurance coverage, if any;

(D) any training logs required by the school psychology training program; and

(E) the supervisee's trainee or licensure status.

(5) Supervisors must ensure that each individual completing any portion of the internship required for licensure as an LSSP, is provided with a written agreement that includes a clear statement of the expectations, duties, and responsibilities of each party, including the total hours to be performed by the intern, benefits and support to be provided by the supervisor, and the process by which the intern will be supervised and evaluated.

(6) Supervisors must ensure that supervisees have access to a process for addressing serious concerns regarding a supervisee's performance. The process must protect the rights of clients to receive quality services, assure adequate feedback and opportunities for improvement to the supervisee, and ensure due process protection in cases of possible termination of the supervisory relationship.

(e) The various parts of this rule should be construed, if possible, so that effect is given to each part. However, where a general provision conflicts with a more specific provision, the specific provision shall control.

~~465.3. ——— Providers of Psychological Services~~

~~(a) Psychologists shall employ or utilize an individual to provide psychological services, in any setting not specifically exempt under §501.004(a)(1) of the Psychologists' Licensing Act (the Act), only if:~~

- ~~—(1) The individual is licensed by this Board; or~~
- ~~—(2) The individual is specifically exempted from licensure requirements by §501.004(a)(2) of the Act, relating to provision of services as part of a supervised course of study by students, residents or interns pursuing a course of study in a recognized training institution or facility; or,~~
- ~~—(3) The individual is engaged in post-doctoral supervision for purposes of satisfying §501.252(b)(2) of the Act; or~~
- ~~—(4) The individual is completing supervised experience for purposes of satisfying §501.260(b)(3) of the Act, relating to Licensed Specialist in School Psychology; or~~
- ~~—(5) The individual is completing supervised experience for purposes of satisfying the requirements to become a licensed professional listed in §501.004(b) of the Act.~~

~~(b) Licensees who contract either individually or with a third-party contract provider to provide psychological services in settings where the Act does not apply pursuant to §501.004 of the Act ("exempt" settings) are not themselves exempt from the Act. In some cases, a licensee may have to follow state or federal guidelines or laws that conflict with Board rules. In those cases, the conflicting guidelines or laws supersede Board rules.~~

465.4. Employment of Unlicensed Individuals

(a) Individuals Licensed in Another Profession. Psychologists may employ or utilize individuals who are licensed members of another profession to provide only activities or services permitted by the applicable license or licenses held by that individual. In addition, a person licensed under Chapter 501 may supervise a licensed member of another profession to the extent permissible by the other profession's statute and regulations. Any service provided by the licensed member of another profession may not be described or represented to the patient or client as psychological services, and the individual must be clearly identified to the patient or client as a licensee of the applicable profession who is providing services pursuant to that individual's own license.

(b) Unlicensed Individuals. Psychologists may employ unlicensed individuals only to perform services which do not constitute the practice of psychology or the activities and services of another licensed profession. Permissible duties include:

(1) Secretarial and clerical duties such as scheduling appointments or processing insurance forms;

(2) Data gathering, such as administering, proctoring, or scoring non-projective tests, obtaining histories or obtaining documentation for record keeping purposes, provided that it does not require psychological education or involve the provision of psychological services; and

(3) Technical, educational, or other duties that are adjunctive to and incorporated into the provision of psychological services such as providing educational information or assisting a client's work with a computer, special equipment or special materials, provided that the duties do not require psychological education or involve the provision of psychological services or the services or activities of another licensed profession.

465.5. ~~Practice of Psychology~~Multiple Licensure

~~(a) Multiple Licensure.~~

~~–(1) Multiple licenses regulated by the Board Council are treated as one for purposes of Board discipline. Any complaint or disciplinary action under these rules is directed to the licensee's psychology practice as a whole, and applies to all Board-issued psychology licenses held by a licensee.~~

~~–(2) Multiple licenses including those governed by other entities. Licensees offering services outside the practice of psychology must avoid confusing or misleading clients by clearly identifying the license(s) under which services are being delivered. If a licensee holds more than one active license under which the licensee provides such services as counseling and psychotherapy in addition to psychological services, the licensee must obtain documented informed consent showing that the patient understands which license governs which services delivered to the patient at all times.~~

~~(b) Practice of Psychology. The following activities are covered by the definition of the "provision of psychological services" in Board Rule §465.1(10). This list is not intended to be exhaustive, but includes examples of the activities that, when performed by a licensee, are subject to Board Rules:~~

~~–(1) conducting or administering testing that requires the use of psychological education, training, knowledge, or skills;~~

~~–(2) the provision of biofeedback when such provision involves the use of education, training, skills, or knowledge in psychology;~~

~~–(3) projective techniques, including, but not limited to, Rorschach, Thematic Apperception Test, Roberts Apperception Test, Sentence Completion tests and Holtzman Ink Blot;~~

~~–(4) career and vocational counseling;~~

~~–(5) the practice of hypnosis and hypnotherapy for health care purposes;~~

~~–(6) marriage and family counseling and therapy; and~~

~~–(7) alcohol and substance abuse treatment.~~

465.6. ~~Public Statements, Advertisements, and Specialty Titles Solicitation, Use of Titles, and Business Names~~

~~(a) Public Statements and Advertisements. Licensees shall not authorize, use or make any public statements or advertisements that are false, deceptive, misleading or fraudulent, either because of what they state, convey or suggest or because of what they omit concerning their own training, experience, abilities or competence; their academic degrees; their credentials; their institutional or association affiliations; or their publications or research.~~

(a) Solicitation of Testimonials and/or Patients.

(1) Licensees do not solicit testimonials from current clients or patients or from other persons who are vulnerable to undue influence.

(2) Licensees do not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential patients or clients.

(b) Use of Titles.

(1) An individual may not use the title of "Licensed Psychologist" unless the individual is licensed as such by this agency.

(2) An individual may not use the title of "Psychologist" when engaged in the practice of psychology, unless the individual is licensed as such by this agency.

(3) A licensed psychologist may not use a specialty title unless one or more of the following criteria have been met:

(A) the individual holds a doctorate in the area of specialization;

(B) the individual has undergone retraining under the American Psychological Association retraining guidelines ~~of 1977 in the area~~ in effect at the time of specialization;

(C) the individual has completed a two-year postdoctoral fellowship in the area of specialization;

(D) for individuals who matriculated from a doctoral program in psychology prior to 1978, documentation of academic coursework and relevant applied experience, as well as proof that the title has been used for at least five years; or

(E) documentation of certification, approval, or specialist status granted by a professional, refereed board, provided that the licensee indicates the name of the board which granted the title and that the individual's status with the specialty board is current and in good standing. Use of the term "Board Certified" or "Board Approved" or any similar words or phrases calculated to convey the same meaning shall constitute misleading or deceptive advertising, unless the licensee discloses the complete name of the specialty board that conferred the aforementioned specialty title, certification, approval or specialist status.

(c) Assumed Names and Legal Entities. Licensees engaged in the practice of psychology under an assumed name or through a legal entity must comply with the name and notification requirements set out in the Assumed Business and Professional Name Act found in Chapter 71 of the Texas Business and Commerce Code and §5.060 of the Texas Business Organizations Code.

465.7. ~~Display of License Renewal Permit~~

~~Licensees must display the original license or an official duplicate issued by the Board and the current renewal permit in a conspicuous place in the principal office where the licensee practices. No unauthorized reproduction may be substituted or displayed. Licensees who provide psychological services through the internet or other remote or electronic means, must provide written notification of their license number and instructions on how to verify the status of a license when obtaining informed consent.~~

465.8. Psychological Services Are Provided within a Defined Relationship

Licensees provide psychological services only in the context of a defined professional relationship.

465.9. Competency

- (a) Licensees provide only services for which they have the education, skills, and training to perform competently.
- (b) Competency includes the ability to provide services concerning a specific individual that takes into account characteristics of that individual including age, gender, ethnicity, national origin, disability, language, and socio-economic status.
- (c) Licensees maintain current knowledge of scientific and professional information that ensures competency in every area in which they provide services.
- (d) Licensees provide services in an unfamiliar area or involving new techniques only after first undertaking appropriate study and training, including supervision, and/or consultation from a professional competent to provide such services.
- (e) In emerging areas in which generally recognized standards for preparatory training do not exist, licensees take reasonable steps to ensure the competence of their work and to protect patients, clients, research participants, and other affected individuals from the potential for harm.
- (f) Licensees are responsible for ensuring that all individuals practicing under their supervision are competent to perform those services.
- (g) Licensees who delegate performance of certain services such as test scoring are responsible for ensuring that the entity to whom the delegation is made is competent to perform those services.
- (h) Licensees who lack the competency to provide particular psychological services to a specific individual must withdraw and refer the individual to an appropriate service provider.
- (i) Emergency Situations. In emergencies, when licensees are asked to provide services to individuals for whom appropriate mental health services are not available and for which the licensee has not obtained the necessary competence, licensees may provide such services until the emergency has abated or to the extent necessary to ensure that services are not denied. ~~licensees may provide such services only to the extent necessary to ensure that services are not denied.~~ If ongoing services are provided, licensees must comply with subsection (d) as soon as practicable or refer the patient to an appropriate service provider.
- (j) Licensees refrain from initiating or continuing to undertake an activity when they know or should know that there is a substantial likelihood that personal problems or conflicts will prevent them from performing their work-related activities or producing a psychological report in a competent and timely manner. When licensees become aware of such conflicts, they must immediately take appropriate measures, such as obtaining professional consultation or assistance in order to determine whether they should limit, suspend, or terminate the engagement in accordance with rule 465.21 of this title (relating to Termination of Services).

465.10. Basis for Scientific and Professional Judgments

Licensees rely on scientifically and professionally derived knowledge when making professional judgments.

465.11. Informed Consent

- (a) Except in an inpatient setting where a general consent has been signed, licensees must obtain and document in writing informed consent concerning all services they intend to provide to the patient, client or other recipient(s) of the psychological services prior to initiating the services, using language that is reasonably understandable to the recipients unless consent is precluded by applicable federal or state law.
- (b) Licensees provide appropriate information as needed during the course of the services about changes in the nature of the services to the patient client or other recipient(s) of the services using language that is reasonably understandable to the recipient to ensure informed consent.
- (c) Licensees provide appropriate information as needed, during the course of the services to the patient client and other recipient(s) and afterward if requested, to explain the results and conclusions reached concerning the services using language that is reasonably understandable to the recipient(s).
- (d) When a licensee agrees to provide services to a person, group or organization at the request of a third party, the licensee clarifies to all of the parties the nature of the relationship between the licensee and each party at the outset of the service and at any time during the services that the circumstances change. This clarification includes the role of the licensee with each party, the probable uses of the services and the results of the services, and all potential limits to the confidentiality between the recipient(s) of the services and the licensee.
- (e) When a licensee agrees to provide services to several persons who have a relationship, such as spouses, couples, parents and children, or in group therapy, the licensee clarifies at the outset the professional relationship between the licensee and each of the individuals involved, including the probable use of the services and information obtained, confidentiality, expectations of each participant, and the access of each participant to records generated in the course of the services.
- (f) At any time that a licensee knows or should know that ~~he or she~~ the licensee may be called on to perform potentially conflicting roles (such as marital counselor to husband and wife, and then witness for one party in a divorce proceeding), the licensee explains the potential conflict to all affected parties and adjusts or withdraws from all professional services in accordance with Council rules and applicable state and federal law. Further, licensees who encounter personal problems or conflicts as described in rule §465.9(j) of this title (relating to Competency) that will prevent them from performing their work-related activities in a competent and timely manner must inform their clients of the personal problem or conflict and discuss appropriate termination and referral to insure that the services are completed in a timely manner.
- (g) When persons are legally incapable of giving informed consent, licensees obtain informed consent from any individual legally designated to provide substitute consent.
- (h) When informed consent is precluded by law, the licensee describes the nature and purpose of all services, as well as the confidentiality of the services and all applicable limits thereto, that the licensee intends to provide to the patient, client, or other recipient(s) of the psychological

services prior to initiating the services using language that is reasonably understandable to the recipient(s).

465.12. Privacy and Confidentiality

- (a) Licensees utilize business practices and provide services in a manner that safeguards the privacy and confidentiality of patients and clients.
- (b) Licensees must inform their patients or clients about confidentiality and foreseeable limitations on confidentiality created by existing and reasonably foreseeable circumstances prior to the commencement of services as part of the informed consent process.
- (c) Licensees keep patients and clients informed of all changes in circumstances affecting confidentiality as they arise.
- (d) Licensees comply with Chapter 611 of the Texas Health and Safety Code and all other state and federal law applicable to patient or client confidentiality.
- (e) Licensees disclose confidential information without the consent of a patient or client only in compliance with applicable state and federal law.
- (f) Licensees who release confidential records relating to a patient or client that also contain confidential information relating to a second patient or client that the licensee obtained through the provision of services to that second individual, and who lack consent or other legal authority to disclose the second individual's identity or records, must remove all identifying and confidential information relating to the second individual before releasing the records.
- (g) Licensees may share information for consultation purposes without a consent only to the extent necessary to achieve the purposes of the consultation. Licensees shall exclude information that could lead to the identification of the patient or client.
- (h) Licensees shall not require a patient or client to waive a legal right to confidentiality as a condition of providing services.
- (i) Licensees include in written and oral reports and consultations, only information germane to the purpose for which the communication is made.

465.13. Personal Problems, Conflicts and Dual Relationships

(a) In General.

(1) Licensees refrain from providing services when they know or should know that their personal problems or a lack of objectivity are likely to impair their competency or harm a patient, client, colleague, student, supervisee, research participant, or other person with whom they have a professional relationship.

(2) Licensees seek professional assistance for any personal problems, including alcohol or substance abuse likely to impair their competency.

(3) Licensees do not exploit persons over whom they have supervisory evaluative, or other authority such as students, supervisees, employees, research participants, and clients or patients.

(4) Licensees refrain from entering into or withdraw from any professional relationship that conflicts with their ability to comply with all Council rules applicable to other existing professional relationships.

(b) Dual Relationships.

(1) A licensee must refrain from entering into a dual relationship with a client, patient, supervisee, student, group, organization, or any other party if such a relationship is likely to impair the licensee's objectivity, prevent the licensee from providing competent psychological services, or exploit or otherwise cause harm to the other party.

(2) A licensee must refrain from entering into or withdraw from a professional relationship where personal, financial, or other relationships are likely to impair the licensee's objectivity or pose an unreasonable risk of harm to a patient or client.

(3) A licensee who is considering or involved in a professional or non-professional relationship that could result in a violation of this rule must take appropriate measures, such as obtaining professional consultation or assistance, to determine whether the licensee's relationships, both existing and contemplated, are likely to impair the licensee's objectivity or cause harm to the other party.

(4) Licensees do not provide psychological services to a person with whom they have had a sexual relationship.

(5) Licensees do not terminate psychological services with a person in order to have a sexual relationship with that person. Licensees do not terminate psychological services with a person in order to have a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of the client.

465.14. Misuse of Licensee Services

- (a) Licensees decline to offer services when limitations or conditions are placed on their work by the patient, client, or third parties which could foreseeably cause the licensee to violate a Council rule.
- (b) If licensees become aware of misuse or misrepresentation of their services or the results of their services, they take reasonable steps to correct or minimize the misuse or misrepresentation.

465.15. Fees and Financial Arrangements

(a) General Requirements.

(1) Before the provision of any services, the licensee and the recipient of psychological services reach an agreement specifying the compensation and billing arrangements.

(2) If services are not paid for as agreed, the licensee shall not utilize a collection agency or legal measures to collect any unpaid fees unless the licensee has provided the affected party with at least 30 days written notice, separate and apart from any notice provided as part of the informed consent process, that such measures will be taken and the party has been provided with a reasonable opportunity to make prompt payment.

(3) Licensees shall not withhold records solely because payment has not been received unless specifically permitted by law.

(4) In reporting their services to third-party payers, licensees accurately state the nature, date and fees for the services provided.

(b) Ethical and Legal Requirements.

(1) Licensees do not engage in fraudulent billing.

(2) Licensees do not misrepresent their fees.

(3) Licensees do not overcharge or otherwise exploit recipients of services or payers with respect to fees.

(4) Licensees do not receive payments from or divide fees with another health care provider in exchange for professional referrals.

(5) A licensee does not participate in bartering if it is clinically contra-indicated or if bartering has the potential to create an exploitative or harmful dual relationship.

465.16. Evaluation, Assessment, Testing, and Reports

(a) Scope and Purpose.

(1) Licensees clearly describe the scope and purpose of evaluation, assessment, and testing to patients before they provide these psychological services.

(2) Licensees produce reports that clearly state and accurately reflect the scope and purpose of evaluation, assessment, and testing.

(b) Reliability and Validity.

(1) Licensees verify, by signature and date, that every evaluation, assessment, test result, report, recommendation, or psychological diagnostic or evaluative statement produced is based on information and techniques sufficient to provide appropriate substantiation for its findings.

(2) Licensees administer, score, interpret or use assessment techniques or tests only if they are familiar with the reliability, validation and related standardization or outcome studies of, and proper applications and use of, the techniques they use.

(3) Licensees who administer, score, interpret or utilize psychological assessment techniques, tests or instruments do so in a manner and for purposes for which there are professional or scientific bases.

(4) Licensees do not base their assessment or intervention decisions or recommendations on data or test results that are outdated for the current purpose.

(5) Licensees do not base decisions or recommendations on tests and measures that are obsolete or not useful for the current purpose.

(c) Limitations.

(1) Licensees include all information that provides the basis for their findings in any report in which they make findings or diagnoses about an individual.

(2) Licensees identify limits to the certainty with which diagnoses, judgments, or predictions can be made about individuals.

(3) Licensees identify various test factors and characteristics of the person being assessed that might affect their professional judgment or reduce the accuracy of their interpretations when interpreting assessment results, including automated interpretations.

(4) Licensees include any significant reservations they have about the accuracy or limitations of their interpretations or findings in any report they produce.

(5) Licensees provide opinions of the psychological characteristics of individuals only after they have conducted an examination of the individuals adequate to support their statements or conclusions. When such an examination is not practical, licensees document the efforts they made to obtain such an examination and clarify the probable impact of their limited information to the reliability and validity of their conclusions.

(6) Licensees must meet any education, training, or licensure requirements established by a test publisher for the purchase or use of its test materials. It is presumed that a licensee meets any such requirements if a test publisher or other authorized vendor, sells test materials to a licensee. Any false or misleading representation by a licensee regarding the individual's qualifications will negate this presumption.

(d) Test Security and Validity. Licensees conduct testing and maintain and release test protocols and data in a secure manner that does not compromise the validity of the test.

(e) Production of Reports.

(1) Licensees shall provide the patient, client, or subject of the evaluation with an estimate of the time needed to produce a report prior to conducting any evaluation, assessment, or testing.

(2) Licensees shall produce a report within a reasonable time period following completion of the evaluation, assessment, or testing needed to substantiate the report.

(3) Licensees shall notify a patient, client, or subject of the evaluation if a report cannot be produced within the original estimated time period and provide a new production date together with a reasonable explanation for why the report will be delayed.

465.17. Therapy and Counseling

(a) Imbalances of Power.

(1) Licensees who engage in therapy or counseling recognize the actual or perceived power or undue influence they hold over current and former patients and clients.

(2) Licensees are presumed to have power and influence over former therapy or counseling patients or clients.

(3) Licensees do not engage in sexual relationships with, employ, enter into business with or otherwise exploit any former patient or client over whom they have actual or perceived power or undue influence created through a therapeutic relationship.

(b) Treatment plans.

(1) Licensees create specific written treatment plans that include, at a minimum, agreed upon goals of the treatment, the techniques to be used, and the tentative duration of the treatment for any therapy or counseling that they provide.

(2) Licensees explain the treatment plan to all recipients of the therapy or counseling before commencing the services.

(3) Licensees alter and document the alteration in the treatment plan when clinically indicated.

(4) Licensees confer with and obtain consent from the patient, client, or other recipient(s) of services concerning significant alterations in the treatment plan.

465.18. Forensic Services

(a) In General.

(1) A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a divorce, child custody determination, fitness for duty evaluation for high risk personnel, disability claim, or risk assessment evaluations of employees, must comply with all applicable Council rules concerning forensic services regardless of whether the licensee is acting as a factual witness or an expert.

(2) Licensees who engage in forensic services must have demonstrated appropriate knowledge of and competence in all underlying areas of psychology about which they provide such services.

(3) All forensic opinions, reports, assessments, and recommendations rendered by a licensee must be based on information and techniques sufficient to provide appropriate substantiation for each finding.

(4) When appointed or designated in writing by a court to provide psychological services, a licensee shall obtain and keep a copy of the court order.

(5) When providing forensic psychological services to a minor who is the subject of a court order or the ward of guardianship, a licensee shall obtain and keep a copy of the relevant portions of any court order, divorce decree, or letters of guardianship authorizing the individual to provide substitute consent on behalf of the minor or ward.

(b) Limitation on Services.

(1) A licensee who is asked to provide an opinion concerning an area or matter about which the licensee does not have the appropriate knowledge and competency to render a professional opinion shall decline to render that opinion.

(2) A licensee who is asked to provide an opinion concerning a specific matter for which the licensee lacks sufficient information to render a professional opinion shall decline to render that opinion unless the required information is provided.

(3) A licensee shall not render a written or oral opinion about the psychological characteristics of an individual without conducting an examination of the individual unless the opinion contains a statement that the licensee did not conduct an examination of the individual.

(4) A written or oral opinion about the psychological characteristics of an individual rendered by a licensee who did not conduct an examination of that individual must contain clarification of the extent to which this limits the reliability and validity of the opinion and the conclusions and recommendations of the licensee.

(5) When seeking or receiving court appointment or designation as an expert for a forensic evaluation a licensee specifically avoids accepting appointment or engagement for both evaluation and therapeutic intervention for the same case. A licensee provides services in one but not both capacities in the same case.

(c) Describing the Nature of Services. A licensee must document in writing that subject(s) of forensic evaluations or their parents or legal representative have been informed of the following:

- (1) The nature of the anticipated services (procedures);
- (2) The specific purpose and scope of the evaluation;
- (3) The identity of the party who requested the psychologist's services;
- (4) The identity of the party who will pay the psychologist's fees and if any portion of the fees is to be paid by the subject, the estimated amount of the fees;

- (5)The type of information sought and the uses for information gathered;
- (6)The people or entities to whom psychological records will be distributed;
- (7)The approximate length of time required to produce any reports or written results;
- (8)Applicable limits on confidentiality and access to psychological records;
- (9)Whether the psychologist has been or may be engaged to provide testimony based on the report or written results of forensic psychological services in a legal proceeding; and
- (10)The licensee's name as it appears in their professional file with the Council prior to initiating services.

(d)Certain Testimony Prohibited.

(1)A licensee may not offer an expert opinion or recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation.

(2)In a contested suit, a licensee may provide other relevant information and opinions, other than those prohibited by paragraph (1) of this subsection, relating to any party that the licensee has personally evaluated or treated.

(3)This subsection does not apply to a suit in which the Department of Family and Protective Services is a party.

(e)Child Custody Evaluations.

(1)The role of the child custody evaluator is one of professional expert. A licensee serving as a child custody evaluator shall not function as an advocate, but must remain impartial and objective. Licensees conducting child custody evaluations, including those licensees appointed by a court, are subject to the Council's jurisdiction and must follow all applicable Council rules.

(2)The term "supervision" as used in this subsection shall have the meaning assigned by §107.101 of the Family Code. However, the term shall not encompass the restrictions and requirements set forth in rule §465.2 of this title (relating to Supervision) nor shall a licensee providing supervision under this subsection have supervisory responsibility under that same rule.

(3)Minimum Qualifications of Child Custody Evaluator.

(A)A licensee must be qualified to conduct a child custody evaluation pursuant to §107.104 of the Family Code before the licensee may conduct an evaluation. Licensees qualified to conduct evaluations under §107.104(b)(2) must conduct evaluations under supervision in accordance with that section.

(B)Notwithstanding any other grounds for qualification, the Council has determined that a licensed psychologist is qualified to conduct child custody evaluations if the licensee:

(i)has obtained a minimum of 8 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and is board certified in forensic psychology by the American Board of Professional Psychology (ABPP); or

(ii)has obtained a minimum of 40 professional development hours directly related to the performance of child custody evaluations since becoming a licensed psychologist, and has conducted at least three child custody evaluations under the supervision of a qualified licensee.

(C)A licensee who does not meet the minimum qualification requirements set forth in §107.104 of the Family Code, may nevertheless conduct a child custody evaluation if:

(i)appointed to do so pursuant to §107.106 of the Family Code. A licensee appointed under §107.106 must comply with the provisions of Subchapter D of the Family Code and this rule; or

(ii)the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship prior to September 1, 2015.

(D)If requested by a court, a licensee selected to conduct or who is conducting a child custody evaluation must demonstrate appropriate knowledge and competence in child custody evaluation services consistent with professional models, standards, and guidelines.

(E)In addition to the minimum qualifications set forth by this rule, an individual must complete at least eight hours of family violence dynamics training provided by a family violence service provider to be qualified to conduct child custody evaluations.

(4)Disclosure of Conflicts and Bias.

(A)Licensees shall comply with all disclosure requirements set forth in §107.107 of the Family Code.

(B)Following any disclosure required by §107.107(c), a licensee must resign as child custody evaluator, unless:

(i)the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or

(ii)the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the child custody evaluator.

(C)Except as authorized by §107.107(f), licensees may not accept appointment as a child custody evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by §71.003 of the Family Code.

(5)Elements of Child Custody Evaluation.

(A)Licensees shall comply with §§107.108, 107.109, and 107.1101 of the Family Code when conducting child custody evaluations.

(B)Licensees may conduct psychometric testing as part of a child custody evaluation in accordance with §107.110 of the Family Code.

(6)Communications and Recordkeeping of Child Custody Evaluator.

(A)Licensees shall comply with the requirements of §107.112 of the Family Code regarding:

(i)the disclosure of communications between evaluation participants;

(ii)the creation and retention of records relevant to the evaluation; and

(iii)access to evaluation records.

(B)Licensees conducting child custody evaluations shall maintain the confidentiality of records obtained from the Department of Family and Protective Services pursuant to §107.111 of the Family Code, as well as any records obtained pursuant to §107.1111. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by law will result in disciplinary action against a licensee.

(7)Evaluation Report.

(A)A licensee who conducts a child custody evaluation shall prepare and file a report in accordance with §107.113 of the Family Code.

(B)A licensee shall provide a copy of any report filed with the Court in accordance with §107.114 of the Family Code.

(f)Adoption Evaluations.

(1)The role of the adoption evaluator is one of professional expert. A licensee serving as an adoption evaluator shall not function as an advocate, but must remain impartial and objective.

Licensees conducting adoption evaluations, including those licensees appointed by a court, are subject to the Council's jurisdiction and must follow all applicable Council rules.

(2) Minimum Qualifications of Adoption Evaluator.

(A) A licensee must be qualified to conduct an adoption evaluation pursuant to §107.154 of the Family Code before the licensee may conduct an evaluation.

(B) Licensees qualified to conduct a child custody evaluations are also qualified to conduct adoption evaluations.

(C) A licensee who does not meet the minimum qualification requirements set forth in §107.154, may nevertheless conduct an adoption evaluation if:

(i) appointed to do so pursuant to §107.155 of the Family Code. A licensee appointed under §107.155 must comply with the provisions of Subchapter E of the Texas Family Code and this rule; or

(ii) the individual is licensed as a psychologist, and has completed at least ten social studies or other child custody evaluations ordered by a court in suits affecting the parent-child relationship prior to September 1, 2015.

(3) Disclosure of Conflicts and Bias.

(A) Licensees shall comply with all disclosure requirements set forth in §107.156 of the Family Code.

(B) Following any disclosure required by §107.156(c), a licensee must resign as adoption evaluator, unless:

(i) the court finds that no conflict of interest exists and that any previous knowledge of a party or child who is the subject of the suit is not relevant; or

(ii) the parties and any attorney for a child who is the subject of the suit agree in writing to the licensee's continued appointment as the adoption evaluator.

(C) Except as authorized by §107.156(e) of the Family Code, licensees may not accept appointment as an adoption evaluator if they have worked in a professional capacity with a party, a child who is the subject of the suit, or a member of the party's or child's family. The term "family" as used in this subpart has the meaning assigned by §71.003 of the Family Code.

(4) A licensee shall report to the Department of Family and Protective Services any adoptive placement that appears to have been made by someone other than a licensed child-placing agency or a child's parent or managing conservator.

(5) Licensees shall comply with §§107.158, 107.159, and 107.160 of the Family Code when conducting adoption evaluations.

(6) Licensees conducting adoption evaluations shall maintain the confidentiality of records obtained from the Department of Family and Protective Services pursuant to §107.163 of the Family Code. Licensees may not disclose any information obtained from the records except as required or allowed by law. Failure to maintain confidentiality as required by §107.163 of the Family Code will result in disciplinary action against a licensee.

(g) Duty to Report Complaints. Licensees must report any complaint filed against them that alleges facts tending to show a violation of this rule in connection with a child custody or adoption evaluation. The report must be made to the court that ordered the evaluation within 30 days of receiving notice of the complaint from the Council. Only those complaints for which a licensee receives notice from the Council need to be reported.

(h) Parenting Facilitators.

(1)The title "parenting facilitator" is defined in §153.601 of the Family Code.

(2)The Council's jurisdiction over licensees who also accept engagements as parenting facilitators is limited to its enforcement of Council rules. The Family Code sets forth procedures for the qualifications, duties, appointment and removal, reporting, record retention, and compensation of parenting facilitators. The Family Code also provides procedures for disclosure of conflicts of interest by parenting facilitators.

(3)A parenting facilitator who is also a licensed psychologist in Texas is a provider of forensic psychological services and must comply with all applicable Council rules.

(4)Participants in parenting facilitation are not patients as defined in these rules and in Texas Health and Safety Code §611.001. Records created during parenting facilitation are not confidential.

(5)Parenting facilitators must comply with §§153.6061 and 153.6101 of the Family Code as to duties and qualifications, and with the "Guidelines for Parenting Coordination" published by the Association of Family and Conciliation Courts.

(6)The following psychologist-parenting facilitator practice standards are set forth consistent with §153.6101 of the Family Code:

(A)Parenting facilitators licensed by the Council shall comply with the standard of care applicable to the license to practice psychology in Texas.

(B)Psychologist-parenting facilitators meet all requirements of §153.6101 of the Family Code, including active licensure to practice as a psychologist in Texas; completion of 8 hours of family violence dynamics training provided by a family violence service provider; 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court; 24 classroom hours of training in the fields of family dynamics, child development, and family law; and 16 hours of training in the laws governing parenting coordination and parenting facilitation and the multiple styles and procedures used in different models of service.

465.20. Research

(a) Conducting Research.

(1) Licensees who conduct research involving human research participants must obtain informed consent which includes risks, discomfort, adverse effects, limitations on confidentiality including anticipated sharing or use of personally identifiable research data and of the possibility of unanticipated future uses, as well as any aspects about which the prospective participants inquire.

(2) Licensees shall conduct all research involving animals in a humane manner which minimizes the discomfort, infection, illness and pain of animal subjects. A procedure subjecting animals to pain, stress or privation is used only when an alternative procedure is unavailable and the goal is justified by its prospective scientific, education or applied value.

(b) Research results.

(1) Psychologists do not fabricate data or falsify results in their publications.

(2) Licensees who discover significant errors in their published data take all reasonable steps to correct such errors.

(3) Licensees do not present substantial portions or elements of another individual's research work or data as their own.

(4) Licensees take responsibility and credit, including authorship credit, only for work they have actually performed or to which they have contributed.

465.21. Termination of Services

- (a) Licensees do not abandon patients or clients.
- (b) Withdrawal from a professional relationship in compliance with Council rules to avoid a prohibited dual relationship is not abandonment of a patient or client.
- (c) Licensees terminate a professional relationship when it becomes reasonably clear that the patient or client no longer needs the service, is not benefiting or is being harmed by continued service.
- (d) Prior to termination of a professional relationship for any reason, the licensee takes all reasonable steps to facilitate transfer of responsibility for the patient or client to a qualified service provider if necessary to prevent physical or emotional harm and, if not precluded by the patient or client's conduct, provides appropriate pre-termination counseling and referrals.
- (e) Licensees who are required to interrupt services of a professional relationship for any reason shall make arrangements for provision of any services to all patients or clients required during the interruption.
- (f) Termination of employment with agencies or organizations.
 - (1) When entering into employment or contractual relationships, licensees provide for orderly and appropriate resolution of responsibility for patient or client care in the event that the employment or contractual relationship ends, with paramount consideration given to the welfare of the patient or client.
 - (2) Licensees who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate access to records of all services provided by the licensee to patients or clients as otherwise required by Council rules and applicable law.
 - (3) Licensees who are employed by an organization or agency to provide psychological services must, upon termination of that employment, work with the employer to facilitate transfer of clients or patients who are continuing to receive services from the agency or organization to another qualified service provider.
- (g) Termination of employment with public schools.
 - (1) A LSSP who is under contract as an employee of a public school to provide school psychological services must deliver to such public school a written resignation before terminating services or employment without cause. The resignation must be filed with the public school's board of trustees or designee not later than the 45th day before the first day of instruction of the following school year. A written resignation mailed by prepaid certified or registered mail to the president of the public school's board of trustees or designee at the post office address of the public school is considered delivered at the time of mailing.
 - (2) A LSSP who is under contract as an employee of a public school may resign at any time if given written consent by the public school's board of trustees or designee or if such resignation is for cause.

465.22. Psychological Records, Test Data and Test Materials

(a) General Requirements.

(1) All licensees shall create and maintain accurate, current, and pertinent records of all psychological services rendered by or under the supervision of the licensee.

(2) All records shall be sufficient to permit planning for continuity in the event that another care provider takes over delivery of services to a patient or client for any reason, including the death, disability or retirement of the licensee and to permit adequate regulatory and administrative review of the psychological service.

(3) All licensees shall identify impressions and tentative conclusions as such in patient or client records.

(4) All records and record entries shall be created in as timely a manner as possible after the delivery of the specific services being recorded.

(5) Records shall be maintained and stored in a way that permits review and duplication.

(6) Licensees working in public school settings shall comply with all federal and state laws relative to the content, maintenance, control, access, retention and destruction of psychological and educational records, test data and test protocols.

(7) Licensees are prohibited from falsifying, altering, fabricating, or back-dating records and reports.

(b) Maintenance and Control of Records.

(1) Licensees shall maintain records in a manner that protects the confidentiality of all services delivered by the licensee.

(2) Licensees are responsible for the contents of, as well as the access, retention, control, maintenance, and destruction of all records unless stated otherwise by law.

(3) Licensees shall make all reasonable efforts to protect against the misuse of any record.

(4) Licensees shall maintain control over records to the extent necessary to ensure compliance with all applicable state and federal laws.

(5) In situations where it becomes impossible for a licensee to maintain control over records as required by state or federal law, the licensee shall make all necessary arrangements for transfer of the licensee's records to another licensee who will ensure compliance with state and federal laws concerning records.

(6) The possession, access, retention, control, maintenance, and destruction of records of psychological services rendered by a licensee as an employee of or contractor for an agency or organization remain the responsibility of that agency or organization upon termination of the licensee's employment or contract unless otherwise required by state or federal law or legal agreement.

(c) Access to Records.

(1) Records shall be entered, organized and maintained in a manner that facilitates their use by all authorized persons.

(2) Records may be maintained in any media that ensure confidentiality and durability.

(3) A licensee shall release information about a patient or client only upon written authorization from the patient or client, or as otherwise permitted or required under state or federal law.

(4) Test materials are not part of a patient's or client's record and may not be copied or distributed unless otherwise permitted or required under state or federal law.

(5) Test data are part of a patient's records and must be released to the patient as part of the patient's records. In the event test data are commingled with test materials, licensees may inquire whether the patient will accept a summary or narrative of the test data in lieu of having to either redact the test materials or extract the test data from test materials in order to comply with the request for records.

(6) Licensees cooperate in the continuity of care of patients and clients by providing appropriate information to succeeding qualified service providers as permitted by applicable Council rule and state and federal law.

(7) Licensees who are temporarily or permanently unable to practice psychology shall implement a system that enables their records to be accessed in compliance with applicable Council rules and state and federal law.

(8) Access to records may not be withheld due to an outstanding balance owed by a client for psychological services provided prior to the patient's request for records. However, licensees may impose a reasonable fee for review and/or reproduction of records and are not required to permit examination until such fee is paid, unless there is a medical emergency or the records are to be used in support of an application for disability benefits.

(9) No later than 15 days after receiving a written request from a patient to examine or copy all or part of the patient's mental health records, a psychologist shall:

(A) make the information available for examination during regular business hours and provide a copy to the patient, if requested; or

(B) inform the patient in writing that the information does not exist or cannot be found; or

(C) when withholding information, provide the patient with a signed and dated statement reflecting the licensee's determination, based upon the exercise of professional judgment, that the access requested is reasonably likely to endanger the life or physical safety of the patient or another person. The written statement must specify the portion of the record being withheld, the reason for denial and the duration of the denial.

(10) A licensee may, but is not required to provide a patient with access to psychotherapy notes, as that term is specifically defined in 45 C.F.R. §164.501, maintained by the licensee concerning the patient.

(d) Retention of Records.

(1) Licensees shall comply with all applicable laws, rules and regulations concerning record retention.

(2) In the absence of applicable state and federal laws, rules and regulations, records and test data shall be maintained for a minimum of seven years after the date of termination of services with the patient, client, or subject of evaluation, or ~~three~~ five years after a patient or subject of evaluation reaches the age of majority, whichever is greater.

(3) All records shall be maintained in a manner which permits timely retrieval and production.

(e) Outdated Records.

(1) Licensees take reasonable steps when disclosing records to note information that is outdated.

(2) Disposal of records shall be done in an appropriate manner that ensures confidentiality of the records in compliance with applicable Council rules and state and federal laws.

465.32. Disposition and Assumption of the Practice of a Mental Health Professional

(a) In General.

(1) A licensee has the right to sell or otherwise dispose of ~~his or her~~the licensee's practice to another licensed psychologist.

(2) A licensee has the right to assume the practice of a licensee.

(3) Arrangements regarding accounts receivable and other financial and tangible assets and liabilities of the practice being transferred must be resolved by the selling and assuming licensees prior to the transfer of any patient or client records.

(b) Notice and Referral of Patients and Clients.

(1) A licensee who intends to sell, retire, or otherwise dispose of a practice must make reasonable efforts to notify current and former patients or clients that on a given date the practice is being sold and that patient or client records will be transferred to the buyer unless the patient or client provides the name of an alternative mental health care provider to receive the records. This notice must provide a reasonable time to the patients and clients to make suitable responses and arrangements.

(2) A licensee who assumes the practice of another mental health service provider may state ~~his or her~~a willingness to provide services to all patients or clients the licensee is competent to treat.

(3) A licensee who assumes a practice must provide an appropriate referral to a qualified mental health services provider to any patient or client who notifies the licensee that they do not want to receive services from the licensee or to a patient or client to whom the licensee declines to offer services.

(4) If the patient or client accepts a referral, the referring licensee must forward the patient or client's records to that mental health professional.

465.33. Improper Sexual Conduct

(a) "Sexual Harassment" means sexual advances, requests for sexual favors, or other verbal or physical conduct or contact of a sexual nature that has the purpose or effect of creating an intimidating, hostile, or offensive environment and that occurs within a professional relationship. The determination of whether conduct or comments rise to the level of sexual harassment must be made based upon the totality of the circumstances, and from the viewpoint of a reasonable person. Sexual harassment does not include simple teasing, offhand comments, or isolated incidents that are not serious in nature.

(b) "Sexual Impropriety" is deliberate or repeated comments, gestures, or physical acts of a sexual nature that include, but are not limited to:

(1) Behavior, gestures, or expressions which may reasonably be interpreted as inappropriately seductive or sexually demeaning;

(2) Making inappropriate comments about an individual's body;

(3) Making sexually demeaning comments to an individual;

(4) Making comments about an individual's potential sexual performance, except when the examination or consultation is pertinent to the issue of sexual function or dysfunction in therapy/counseling;

(5) Requesting details of a patient or client's sexual history when not clinically indicated for the type of consultation;

(6) Requesting a date;

(7) Initiating conversation regarding the sexual problems, preferences, or fantasies of either party; or

(8) Kissing of a sexual nature.

(c) A sexual relationship is the engaging in any conduct that is sexual or may be reasonably interpreted as sexual in nature including, but not limited to:

(1) Sexual intercourse;

(2) Genital contact;

(3) Oral to genital contact;

(4) Genital to anal contact;

(5) Oral to anal contact;

(6) Touching breasts or genitals;

(7) Encouraging another to masturbate in one's presence;

(8) Masturbation in another's presence; or

(9) Exposure of sexual organs, breasts or buttocks.

(d) A dating relationship is a relationship between individuals who have or have had a continuing relationship of a romantic or intimate nature, but does not include a casual acquaintanceship or ordinary fraternization in a business or social context. The existence of such a relationship shall be determined based on consideration of:

(1) The length of the relationship;

(2) The nature of the relationship; and

(3) The frequency and type of interaction between the persons involved in the relationship.

(e) A licensee may not engage in sexual harassment, sexual impropriety, or a sexual relationship with a current patient or client; a former patient or client over whom the licensee has influence due to a therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current patients or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a sexual relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of former patients for at least two years after termination of services.

(f) A licensee may not engage in a dating relationship with a current client or former client over whom the licensee has influence due to therapeutic relationship; current students or trainees of the licensee; individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of current clients, or a supervisee over whom the licensee has administrative or clinical responsibility. A licensee may not engage in a dating relationship with individuals who the licensee knows to be the parents, guardians, spouses, significant others, children, or siblings of former clients, for at least two years after termination of services. A licensee may never engage in a dating relationship when there is potential for harm to any of these individuals.

(g) Licensees do not accept as patients individuals with whom they have engaged in sexual relationships.

465.34. Providing Mental Health Services to Those Served by Others

Licensees do not knowingly provide psychological services to clients receiving mental health services elsewhere without first discussing consequent treatment issues with the clients. Licensees shall consult with the other service providers after appropriate consent has been obtained.

465.35. Duty to Report Rule Violations

~~(a) When a licensee believes that there may have been an ethical or Board rule violation by another licensee that does not involve harm or potential harm to any member of the public, the licensee may attempt to resolve the issue by bringing it to the attention of that individual if informal resolution would not violate any confidentiality rights that may be involved. Licensees shall report any unresolved rule violations to the Board.~~

~~(b) A licensee must report conduct by a licensee that appears to involve harm or the potential for harm to any individual, or a violation of Board rule, a state law or federal law.~~

~~(c) A licensee must cooperate with any investigation conducted by the Board, including providing all requested information to the Board's Enforcement Division for thorough investigation of the complaint. Disclosure of patient information in an investigation is authorized by §611.006(a)(1) and (2) of the Texas Health and Safety Code.~~

(a) A licensee that becomes aware of another licensee violating a state or federal law within the jurisdiction of the Council, may attempt to resolve the violation informally with the other licensee if the violation does not involve actual or likely harm to an individual or the public. Any unresolved violations must be reported to the Council.

(b) A licensee that becomes aware of another licensee violating a state or federal law within the jurisdiction of the Council involving actual or likely harm to an individual or the public, must report the violation of the Council.

~~465.37. Compliance with All Applicable Laws~~

~~Licensees comply with all applicable state and federal laws affecting the practice of psychology including, but not limited to:~~

- ~~—(1) Texas Health and Safety Code, Chapter 611, Mental Health Record;~~
- ~~—(2) Texas Family Code~~
 - ~~—(A) Chapter 32, Consent to Medical, Dental, Psychological and Surgical Treatment,~~
 - ~~—(B) Chapter 153, Rights to Parents and Other Conservators to Consent to Treatment and Access to Child's Records, and~~
 - ~~—(C) Chapter 261, Duty to Report Child Abuse and Neglect;~~
- ~~—(3) Texas Human Resource Code, Chapter 48, Duty to Report Elder Abuse and Neglect;~~
- ~~—(4) Texas Civil Practice and Remedy Code, Chapter 81, Duty to Report Sexual Exploitation of a Patient by a Mental Health Services Provider;~~
- ~~—(5) Texas Insurance Code as it relates to submission of billing and third-party payments for mental health services provided by a licensee;~~
- ~~—(6) Texas Code of Criminal Procedure, Chapter 46B. Incompetency to Stand Trial, Art. 46B.025. Expert's Report and Art. 46B.026. Report Deadline; and Chapter 46C. Insanity Defense, Art 46C.105. Reports Submitted by Experts; and~~
- ~~—(7) 18 United States Code §1347 Health Care Fraud.~~

465.38. Psychological Services for Schools

(a) This rule acknowledges the unique difference in the delivery of school psychological services in public and private schools from psychological services in the private sector. The Council recognizes the purview of the State Board of Education and the Texas Education Agency in safeguarding the rights of school children in Texas. The mandated multidisciplinary team decision making, hierarchy of supervision, regulatory provisions, and past traditions of school psychological service delivery both nationally and in Texas, among other factors, allow for rules of practice in public and private schools which reflect these occupational distinctions from the private practice of psychology.

(b) Scope of Practice.

(1) A LSSP is a person who is trained to address psychological and behavioral problems manifested in and associated with educational systems by utilizing psychological concepts and methods in programs or actions which attempt to improve the learning, adjustment and behavior of students. Such activities include, but are not limited to, addressing special education eligibility, conducting manifestation determinations, and assisting with the development and implementation of individual educational programs, conducting behavioral assessments, and designing and implementing behavioral interventions and supports.

(2) The assessment of emotional or behavioral disturbance, solely for educational purposes, using psychological techniques and procedures is considered the practice of school psychology.

(3) The delivery of school psychological services in the public schools of this state shall be consistent with nationally recognized standards for the practice of school psychology. Licensees providing school psychological services in a private school should comply with those same nationally recognized standards where possible, but at a minimum, must comply with all applicable Council rules, including those related to informed consent, notification of the right to file a complaint, competency, forensic services, and misuse of services.

(c) The specialist in school psychology license permits the licensee to provide school psychological services only in public and private schools. A person utilizing this license may not provide psychological services in any context or capacity outside of a public or private school.

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

(e) Providers of Psychological Services Within the Public Schools.

(1) School psychological services may be provided in Texas public schools only by individuals authorized by this Council to provide such services. Individuals who may provide such school psychological services include:

(A) LSSPs;

(B) Those individuals listed in rule §463.11; and

(C) Individuals seeking to fulfill the licensing requirements of rule §463.10 of this title (relating to Licensed Psychological Associate) or rule § 463.12 of this title (relating to Licensed Psychologist).

(2) Licensees who do not hold the specialist in school psychology license may contract for specific types of psychological services, such as clinical psychology, counseling psychology, neuropsychology, and family therapy, but any such contracting may not involve the broad range of school psychological services listed in subsection (b)(1) of this rule.

(3) An LSSP who contracts with a school to provide school psychological services must notify the school of any intent or plan to subcontract or assign those services to another provider prior to entering into the agreement. An LSSP subject to this provision shall be responsible for ensuring the school psychological services delivered comply with subsection (b)(3) above.

(f) Compliance with Applicable Education Laws. LSSPs shall comply with all applicable state and federal laws affecting the practice of school psychology, including, but not limited to:

- (1) Texas Education Code;
- (2) Family Educational Rights and Privacy Act (FERPA), 20 U.S.C. §1232g;
- (3) Individuals with Disabilities Education Improvement Act (IDEIA), 20 U.S.C. §1400 et seq.;
- (4) Texas Public Information Act, Texas Government Code, Chapter 552;
- (5) Section 504 of the Rehabilitation Act of 1973;
- (6) Americans with Disabilities Act (ADA) 42 U.S.C. §12101; and
- (7) HIPAA when practicing in a private school.

(g) Informed Consent in a Public School. Informed consent for a Licensed Specialist in School Psychology must be obtained in accordance with the Individuals with Disabilities Education Improvement Act (IDEIA) and the U.S. Department of Education's rules governing parental consent when delivering school psychological services in the public schools, and is considered to meet the requirements for informed consent under Board rules. No additional informed consent, specific to any Council rules, is necessary in this context. Licensees providing psychological services under subsection (e)(2) or in a private school however, must obtain informed consent as otherwise required by the Council rules.

Rule: 469.1. Timeliness of Complaints.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.1. Timeliness of Complaints.~~

- ~~(a) A complaint not involving a violation of Board rules §465.33 of this title (relating to Improper Sexual Conduct) or §465.22(d) of this title (relating to Psychological Records, Test Data and Test Protocols), will be considered timely if brought within five years of the date of the termination of professional services.~~
- ~~(b) A complaint alleging a violation of Board rules §465.33 of this title or 465.22(d) of this title, will be considered timely if brought within seven years after termination of services or within three years of the patient, a client or subject of evaluation reaching the age of majority, whichever is greater.~~
- ~~(c) A complaint arising out of disciplinary action taken against a licensee by any entity listed in Board rule 469.11(a)(4) of this title (relating to Legal Actions Reported and Reciprocal Discipline), will be considered timely if brought within five years of the date the disciplinary action is reported to the Board.~~
- ~~(d) Limitations shall not begin to run for any complaint arising out of a matter required to be reported under Board rule 469.11 of this title, until the matter is reported in accordance with that rule.~~

Rule: 469.2. Public Complaint Notification Statement.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.2. Public Complaint Notification Statement.~~

~~(a) Methods of Notification. The Board and its licensees shall provide notification to the public that complaints can be filed with the Board by publishing the Board's name, its mailing address, and telephone number by the following method:~~

~~(1) Displaying a sign in a prominent location on a wall in all rooms where psychological services are conducted in a position that is reasonably likely to be viewed by individuals occupying the room, on paper of no less than 8 1/2 inches by 11 inches in size, with the Board-approved notification statement printed in black. Licensees providing psychological services through the internet shall display an image of the notification statement in a prominent and easily accessible location within the website. The Board-approved notification statement must be printed in both English and Spanish.~~

~~(A) The Board-approved English notification statement reads as follows: "Be it known that the Texas State Board of Examiners of Psychologists receives questions and complaints regarding the practice of psychology. For assistance please contact: Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700, or 800-821-3205."~~

~~(B) The Board-approved Spanish notification statement reads as follows: "Se desea informar que la Comisión Estatal Examinadora de Psicólogos de Texas recibe toda clase de consultas y quejas sobre el ejercicio profesional de la psicología en el Estado de Texas. Si usted necesita este servicio, comuníquese con: Texas State Board of Examiners of Psychologists, 333 Guadalupe, Suite 2-450, Austin, Texas 78701, (512) 305-7700 o 800-821-3205."~~

~~(2) The Board-approved notification statement is provided to licensees at the time of licensure. Additional Board-approved notification statements may be obtained directly from the Board office at any time.~~

~~(b) In addition to the Board-approved notification sign, licensees may also notify consumers by the following methods:~~

~~(1) on each registration form, application, or written contract for services of a licensee; or~~

~~(2) in a bill for services provided by a licensee.~~

Rule: 469.3. Standardized Complaint Form.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.3. Standardized Complaint Form.~~

- ~~(a) All complaints filed against a licensee must be submitted to the Board on the Board approved standardized complaint form. The Board approved complaint form can be obtained free of charge from the Board office or downloaded from the Board's web site.~~
- ~~(b) The Board shall make available to each person who wishes to file a complaint: the Board approved complaint form, waiver form if appropriate, release of information forms, and the Rules and Regulations of the Board.~~
- ~~(c) The complaint form must be physically delivered to the Board office, mailed to the Board office, or faxed to the Board.~~

Rule: 469.4. Complaint Investigation.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.4. Complaint Investigation.~~

- ~~(a) The Board has established a priority rating system to distinguish between categories of complaints. The priority rating system is as follows:~~
 - ~~(1) cases involving imminent physical harm to the public;~~
 - ~~(2) cases involving sexual misconduct on the part of a licensee;~~
 - ~~(3) cases involving current applicants for licensure; and~~
 - ~~(4) cases involving other administrative violations of Board Rules or the Act.~~
- ~~(b) The Enforcement Division shall investigate all complaints in a timely manner. A schedule shall be established for conducting each phase of a complaint that is under the control of the Board not later than the 30th day after the date the complaint is received by the Board. The schedule shall be kept in the information file of the complaint, and all parties shall be notified of the projected time requirements for pursuing the complaint. A change in the schedule must be noted in the complaint information file, and all parties to the complaint must be notified in writing not later than the seventh day after the date the change is made.~~
- ~~(c) A preliminary investigation shall be conducted to determine if the Board has jurisdiction over the complaint and to determine the nature of the allegations. The complainant will be provided the opportunity to explain the allegations made in the complaint.~~
- ~~(d) A review will be conducted after the preliminary investigation to determine if the complaint states an allegation which, if true, would constitute a violation of the Board's Act and rules.~~
- ~~(e) Complaints that do not state a violation of the Board's Act or rules shall be dismissed. If the complaint alleges a violation of another agency's Act or~~

~~rules, the complaint will be referred to the appropriate agency as required or allowed by law.~~

- ~~(f) Complaints that state a violation of the Board's Act and rules shall be investigated by an investigator assigned by the Manager of the Enforcement Division.~~
- ~~(g) Licensees will receive notice in writing and addressed to the party. Notice to a licensee is effective and service is complete when sent by certified or registered mail, return receipt requested, to the licensee's address of record at the time of the mailing.~~
- ~~(h) Following completion of the investigation, an investigation report shall be drafted. This report shall include a recommendation as to whether the investigation has produced sufficient evidence to establish probable cause that a violation of the Board's Act and rules has occurred.~~
- ~~(i) The Enforcement Division Manager and the counsel for the Board shall review the investigation report, evidence and the case file of the complaint to determine if there is sufficient evidence to demonstrate a violation of the Board's Act, rules, or order to recommend probable cause to the Board.~~
- ~~(j) A complaint for which the staff determines probable cause shall be referred to a Disciplinary Review Panel of the Board for an informal conference. The Board shall serve the Respondent with a Notice of Violation and Informal Settlement Conference.~~
- ~~(k) A complaint for which the staff determines that probable cause does not exist shall be referred for dismissal.~~
- ~~(l) The services of a private investigator shall be retained only in the event that staff investigator positions are vacant or inadequate to provide essential investigative services. The services of a private investigative agency shall be obtained in accordance with the state's procurement procedures.~~

Rule: 469.5. Complaint Disposition.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.5. Complaint Disposition.~~

- ~~(a) The Board will enter orders accepting resignations or assessing sanctions and dismiss complaints at regularly scheduled meetings.~~
- ~~(b) Notwithstanding subsection (a) of this section, the Executive Director may dismiss a complaint if the Executive Director, General Counsel, and Enforcement Manager agree that a violation did not occur or that the agency lacks jurisdiction over the complaint. However, the Executive Director may not dismiss a complaint if it has been reviewed by a Disciplinary Review Panel or the agency would be barred under Board rule §469.1 of this title (relating to Timeliness of Complaints) from reopening the complaint at the Board's next public meeting. At each public meeting of the Board, the Executive Director shall report to the Board each complaint dismissed since the Board's last public meeting, and the Board may then vote to reopen a complaint if it disagrees with the dismissal.~~
- ~~(c) Any person who files a complaint will be notified by letter of the dismissal of the complaint and the legal basis or reason for the dismissal.~~
- ~~(d) Notwithstanding subsection (a) of this section, the Executive Director is authorized to accept the voluntary resignation in lieu of adjudication of a license. Board ratification is not required. The Executive Director shall report the number of such resignations accepted, along with a brief summary of the basis for those resignations to the Board at its regular meetings.~~

Rule: 469.6. Temporary Suspension of a License.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.6. Temporary Suspension of a License.~~

- ~~(a) An executive committee of the Board, consisting of the Board Chair and two other Board members selected by the Board Chair, may temporarily suspend the license of a licensee under the Act without notice or hearing if the executive committee determines, based on evidence or information presented to the committee, that the continued practice by the licensee constitutes a continuing or imminent threat to the public welfare.~~
- ~~(b) A temporary suspension under subsection (a) of this section may also be ordered on a majority vote of the Board at a scheduled Board meeting.~~
- ~~(c) The effective date of the suspension will be either the date the executive committee votes to suspend the license, or the date that a majority of the Board votes to suspend the license.~~
- ~~(d) If a license is temporarily suspended under subsection (a) of this section without notice or hearing, a hearing to determine whether or not disciplinary proceedings under this Act should be initiated against the licensee must be scheduled to be held before the executive committee not later than the 14th day after the effective date of suspension. Following this hearing, if a determination is made that no disciplinary proceedings should be initiated, any temporary suspension ordered shall be immediately terminated.~~
- ~~(e) In the alternative, a license may be temporarily suspended by an executive committee following notice to the licensee and a hearing before the executive committee. An additional hearing within 14 days of the effective date of a temporary suspension entered pursuant to this subsection shall not be required, if the executive committee votes to temporarily suspend a license and determines that disciplinary proceedings under this Act should be initiated against the licensee.~~
- ~~(f) Upon the temporary suspension of a license under this section, a second hearing on the suspended license shall be held not later than the 60th day~~

~~after the effective date of the suspension, to determine whether the
temporary suspension should be continued pending a final disposition of
any disciplinary action against the licensee. This second hearing shall be
held before the State Office of Administrative Hearings in accordance
with Board Rules and the Act. If the second hearing is not held in the time
required by this rule, the suspended license is automatically reinstated,
unless the delay was caused by the licensee or the licensee's agent.~~

Rule: 469.7. Persons with Criminal Backgrounds.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.7. Persons with Criminal Backgrounds.~~

~~(a) The Board may revoke or suspend an existing valid license, disqualify a person from receiving or renewing a license, or deny to a person the opportunity to be examined for a license due to a felony or misdemeanor conviction, or a plea of guilty or nolo contendere followed by deferred adjudication, if the offense directly relates to the performance of the activities of a licensee and the conviction directly affects such person's present fitness to perform as a licensee of this Board.~~

~~(b) Criminal History Evaluation Letters.~~

~~(1) In compliance with Chapter 53 of the Texas Occupations Code, the Board will provide criminal history evaluation letters.~~

~~(2) A person may request the Board to provide a criminal history evaluation letter if the person is planning to enroll or is enrolled in an educational program that prepares the person for a license with this Board and the person has reason to believe that the person is ineligible for licensure due to a conviction or deferred adjudication for a felony or misdemeanor offense.~~

~~(3) The requestor must submit to the Board a completed Board application form requesting an evaluation letter, the required fee, and certified copies of court documentation about all convictions and resolution to the Board.~~

~~(4) Requestors must obtain a fingerprint criminal history record check after they have submitted an application for a criminal history evaluation letter.~~

~~(5) The Board has the authority to investigate a request for a criminal history evaluation letter and may require that the requestor provide additional information about the convictions and other dispositions if requested by the Board.~~

~~(6) The Board will provide a written response to the requestor within 90 days of the Board's receipt of the request, unless a more extensive investigation is required or the requestor fails to comply with a Board investigation. The Board's evaluation letter will state the Board's determination on each ground for potential ineligibility presented by the requestor.~~

~~(7) In the absence of new evidence known to but not disclosed by the requestor or not reasonably available to the Board at the time the letter is issued, the Board's ruling on the request determines the requestor's eligibility only with respect to the grounds for potential ineligibility set out in the letter.~~

~~(c) The Board shall revoke an existing valid license, disqualify a person from receiving or renewing a license, or deny to a person the opportunity to be examined for a license due to a felony conviction under Section 35A.02 of the Texas Penal Code, concerning Medicaid fraud.~~

~~(d) No person currently serving a sentence in a penal institution or correctional facility following a felony conviction is eligible to obtain or renew his/her license.~~

~~(e) In determining whether a criminal conviction directly relates to the performance of a licensee, the Board shall consider the factors listed in the Texas Occupations Code, Chapter 53.~~

~~(f) Those crimes which the Board considers as directly related to the performance of a licensee:~~

~~(1) offenses listed in Article 42A.054 of the Code of Criminal Procedure;~~

~~(2) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;~~

~~(3) any criminal violation of the Psychologists' Licensing Act;~~

~~(4) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;~~

~~(5) any criminal violation of Chapter 32, Subchapter B (Forgery) of the Penal Code;~~

~~(6) any criminal violation of Sections 32.42 (Deceptive Business Practices), 32.43 (Commercial Bribery), 32.45 (Misapplication of~~

~~Fiduciary Property), 32.46 (Securing Execution of Document by Deception), 32.50 (Deceptive Preparation and Marketing of Academic Product), 32.51 (Fraudulent Use or Possession of Identifying Information), 32.52 (Fraudulent, Substandard, or Fictitious Degree), or 32.53 (Exploitation of Child, Elderly or Disabled Individual) of the Penal Code;~~

~~(7) any criminal violation of Chapter 37 (Perjury and Other Falsification) of the Penal Code;~~

~~(8) any offense involving the failure to report abuse;~~

~~(9) any criminal violation of Section 38.12 (Barratry and Solicitation of Professional Employment) of the Penal Code;~~

~~(10) any criminal violation involving a federal health care program, including 42 USC Section 1320a-7b (Criminal penalties for acts involving Federal health care programs);~~

~~(11) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of psychology; and~~

~~(12) any attempt, solicitation, or conspiracy to commit an offense listed herein.~~

~~(g) In determining whether a criminal conviction directly affects present fitness of the licensee, the Board shall consider the factors listed in Texas Occupations Code, §53.023.~~

~~(h) It shall be the responsibility of the licensee to secure and provide to the Board the recommendations of the prosecution, law enforcement, and correctional authorities regarding all criminal offenses.~~

~~(i) The licensee shall also furnish proof in such form as may be required by the Board that he/she maintained a record of steady employment and has supported his/her dependents and has otherwise maintained a record of good conduct and has paid all outstanding court costs, supervision fees, fines and restitution as may have been ordered in all criminal cases in which he/she has been convicted.~~

Rule: 469.8. Rehabilitation Guidelines.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.8. Rehabilitation Guidelines.~~

- ~~(a) In the event of revocation or suspension of a license due to non-compliance with the rules of the Board and/or its ethical principles, the Board, in its discretion, may implement a plan of rehabilitation. The plan shall outline the steps the person must follow in order to be considered for relicensure or removal of suspension. Completion of the plan may lead to consideration of submission of an application for relicensure; removal of suspension; or removal of supervision requirements. In the event the licensee has not met the Board's criteria for rehabilitation, the plan may be revised, expanded, and/or continued depending upon the progress of the rehabilitation program. The licensee, before beginning the options outlined in subsection (b) of this section, must address any outstanding complaints.~~
- ~~(b) The Board may follow one or more options in devising a rehabilitation program:~~
 - ~~(1) The individual may be supervised for a specified length of time in all or selected areas of activities related to his/her practice as a licensee by a licensed psychologist approved by the Board.~~
 - ~~(A) The Board will specify the focus of the supervision.~~
 - ~~(B) The Board will specify the number of hours per week required in a face-to-face supervisory contract.~~
 - ~~(C) The supervisor will provide periodic and timely reports to the Board concerning the progress of the supervisee.~~
 - ~~(D) Any fees for supervision time will be the responsibility of the supervisee.~~
 - ~~(2) The individual may be expected to successfully complete a variety of appropriate educational programs. Appropriate educational formats may include but are not limited to workshops, seminars,~~

~~courses in regionally accredited universities, or organized pre- or post-doctoral internship settings. Workshops or seminars which are not held in a setting of academic review (approved professional development) need prior approval of the Board. Any course of study must be approved by the Board prior to enrollment if it is to meet the criteria of a rehabilitation plan.~~

~~(3) The Board may require of the individual:~~

- ~~(A) psychodiagnostic evaluations by a psychologist approved by the Board;~~
- ~~(B) a physical examination including alcohol and drug screening by a physician approved by the Board;~~
- ~~(C) psychotherapy on a regular basis from a psychologist approved by the Board; or~~
- ~~(D) any other requirement that seems appropriate to the individual case.~~

~~(4) The Board may require the individual to:~~

- ~~(A) take or retake and pass the appropriate professional examination;~~
- ~~(B) take or retake and pass the Jurisprudence Examination; or~~
- ~~(C) complete any other requirement that seems appropriate to the individual case.~~

Rule: 469.9. Complaints Alleging Violations of Court Orders or Education Law.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.9. Complaints Alleging Violations of Court Orders or Education Law.~~

~~(a) No complaint will be processed against a licensee if such complaint is predicated upon a violation of a court order unless such complaint includes certified court documents which show that the court has decided that the licensee did violate the specific court order and the court's response to such violation.~~

~~(b) Complaints Involving Standard of Care Issues in Schools:~~

~~(1) An individual wishing to file a complaint against a licensee for any matter relating to the identification, evaluation, or educational placement of or the provision of a free appropriate public education to a student, must first exhaust all administrative remedies available to that individual under §89.1150 of the Commissioner's Rules Concerning Special Education Services, Texas Education Agency. An individual that has gone through a due process hearing with the Texas Education Agency will be considered to have exhausted all administrative remedies.~~

~~(2) For purposes of this rule, the rule of limitations found in Board rule 469.1, of this title (relating to Timeliness of Complaints), shall not begin to run until all of the administrative remedies reference in subsection (b)(1) have been exhausted.~~

~~(3) Notwithstanding subsection (b)(1), an individual employed or contracted by the same public or private school as the licensee may file a complaint covered by subsection (b)(1) regardless of whether any administrative remedies available under state or federal education law are utilized by the parent or legal guardian of a student. A complaint brought under this provision shall be subject to the rule of limitations set forth in Board rule §469.1 of this title.~~

~~(4) This rule shall not operate to preclude any individual from filing a complaint against a licensee for any matter other than those described in subsection (b)(1), nor shall it operate to limit the Board's ability to bring a complaint for any matter within the agency's jurisdiction.~~

Rule: 469.10. Rules of Evidence in Contested Cases.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.10. Rules of Evidence in Contested Cases. The rules of evidence described in the Administrative Procedure Act will be followed by the Board and its hearing officers. Considering that the Board commonly relies upon information presented to it in applications, written responses, and related documentation in the routine conduct of its affairs, including official decision-making in the processing of applications for licensure, evidence of a similar type will be considered and may be relied upon by the Board and its hearing officers in the conduct of the Board's affairs involving official decision-making in all matters relating to licensure, including disciplinary matters in contested cases.~~

Rule: 469.11. Legal Actions Reported and Reciprocal Discipline.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.11. Legal Actions Reported and Reciprocal Discipline.~~

~~(a) Licensees are required to report legal actions as follows:~~

- ~~(1) Any conviction, sentence, dispositive agreement, or order placing the licensee on community supervision or pretrial diversion, must be reported in writing to the Board within thirty days of the underlying event. A report must include the case number, court, and county where the matter is filed, together with a description of the matter being reported. A licensee shall provide copies of court documents upon request from agency staff.~~
- ~~(2) Any lawsuit brought by or against a licensee concerning or related to the delivery of psychological services or billing practices by the licensee. A report must include a copy of the initial pleading filed by or served upon the licensee, and must be submitted to the Board within thirty days of either filing by or service upon the licensee.~~
- ~~(3) A complaint shall be opened if a reported criminal action constitutes grounds for disciplinary action as set forth in the Act at §501.401. A complaint may be opened if a reported civil action constitutes grounds for disciplinary action under Board rules.~~
- ~~(4) Any administrative or disciplinary action initiated against a licensee by another health regulatory agency in this state or any other jurisdiction, or any agency or office within the federal government, must be reported to the Board by sending notification of the action within thirty days of the licensee receiving notice of the action. A report must include a copy of any complaint, notice of violation, or other documentation received by the licensee from the initiating entity which describes the factual basis for the action. A licensee must also supplement his or her report to the Board with a copy of any order, letter, or determination setting forth the final~~

~~disposition of the matter within thirty days following the final
disposition.~~

~~(b) Reciprocal Discipline:~~

- ~~(1) A complaint shall be opened upon receipt of a report of discipline
against a licensee by another health licensing board in this state or
any other jurisdiction.~~
- ~~(2) The disciplinary action imposed on a licensee who is disciplined
by another health licensing board will be the discipline applicable
to the same conduct or rule violation under Board rules.~~
- ~~(3) A voluntary surrender of a license in lieu of disciplinary action or
during an investigation by another health licensing board
constitutes disciplinary action under this rule. A complaint shall be
opened and the disciplinary action imposed will be the discipline
applicable under Board rules to the alleged conduct as if proved.~~

Rule: 469.12. Suspension of License for Failure to Pay Child Support.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.12. Suspension of License for Failure to Pay Child Support.~~

- ~~(a) On receipt of a final court or attorney general's order suspending a license due to failure to pay child support, the executive director shall immediately determine if the Board has issued a license to the obligor named on the order, and, if a license has been issued:
 - ~~(1) enter an order of suspension of the license;~~
 - ~~(2) report the suspension as appropriate; and~~
 - ~~(3) demand surrender of the suspended license.~~~~
- ~~(b) The Board shall implement the terms of a final court or attorney general's order suspending a license without additional review or hearing. The Board will provide notice as appropriate to the licensee or to others concerned with the license.~~
- ~~(c) The Board may not modify, remand, reverse, vacate, or stay a court or attorney general's order suspending a license issued under the Texas Family Code, Chapter 232, and may not review, vacate, or reconsider the terms of an order.~~
- ~~(d) A licensee who is the subject of a final court or attorney general's order suspending his or her license is not entitled to a refund for any fee paid to the Board.~~
- ~~(e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section shall comply with the normal renewal procedures in the Act and this chapter; however, the license will not be renewed until subsections (g) and (h) of this section are met.~~
- ~~(f) An individual who continues to engage in the practice of psychology or continues to use the titles "Licensed Psychologist," "Provisionally Licensed Psychologist," "Licensed Psychological Associate," "Licensed~~

~~Specialist in School Psychology" or the initials "L.P.," "P.L.P.," "L.P.A.," or "L.S.S.P." after the issuance of a court or attorney general's order suspending the license is liable for the same civil and criminal penalties provided for engaging in the prohibited activity without a license or while a license is suspended as any other license holder of the Board.~~

- ~~(g) On receipt of a court or attorney general's order vacating or staying an order suspending a license, the executive director shall promptly issue the affected license to the individual if the individual is otherwise qualified for the license.~~
- ~~(h) The individual must pay a reinstatement fee in an amount equal to the annual renewal fee set out in Board rule §473.3 of this title (relating to Annual Renewal Fees) prior to issuance of the license under subsection (g) of this section.~~
- ~~(i) In compliance with Chapter 232, Family Code, upon notice from a child support agency that a licensee has failed to pay child support for six months or more, and requests that the Board refuse to renew the license, the Board will not accept an application for renewal until it is notified by the child support agency that the licensee has met requirements set by law. The Board may charge the licensee a fee for such a denial of renewal.~~

Rule: 469.14. Monitoring of Licensees.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.14. Monitoring of Licensees.~~

- ~~(a) The Compliance Committee is responsible for monitoring licensees who are ordered by the Board to perform certain acts. The Compliance Committee ascertains that the licensee performs the required acts within the designated time period.~~
- ~~(b) The Compliance Committee is responsible for implementing the Board's preventative approach to enforcement of the Act and the Rules of the Board by identifying and monitoring licensees who represent a risk to the public.~~

Rule: 469.15. Disciplinary Action for Persons with Dual Licensure.

Comment: Proposed Repeal

Action: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirement set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~469.15. Disciplinary Action for Persons with Dual Licensure. Disciplinary Action for Persons with Dual Licensure. A disciplinary action taken by the Board against a licensee is considered a disciplinary action against all licenses that the licensee holds with the Board.~~

Rule: 470.1 Objective and Scope

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.1 Objective and Scope. The objective of this chapter is to obtain a just, fair, and equitable determination of any matter within the jurisdiction of the Board. To the end that this objective may be attained with as great expedition and at the least expense as possible to the parties and the State, the provisions of this chapter shall be given a liberal construction. The provisions of this chapter govern the procedure for the institution, conduct, and determination of all proceedings before the Board. The provisions of the Administrative Procedure Act (APA), Government Code, Chapter 2001, govern where ambiguity or differences exist between the provisions of this chapter and APA.~~

Rule: 470.2 Definitions

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.2. Definitions. The following terms have the following meanings:~~

- ~~(1) Act—The Psychologists' Licensing Act, Texas Occupations Code, Title 3, Subtitle I, Chapter 501.~~
- ~~(2) Administrative Law Judge (ALJ)—An individual appointed by the Chief Administrative Law Judge of the State Office of Administrative Hearings (SOAH) under Government Code, Chapter 2003, §2003.041.~~
- ~~(3) Agency—The Board and all divisions, departments and employees thereof.~~
- ~~(4) Administrative Procedure Act (APA)—Government Code, Chapter 2001, as amended.~~
- ~~(5) Applicant—A party seeking a license from the Board.~~
- ~~(6) Authorized representative—An attorney authorized to practice law in the State of Texas or, if authorized by applicable law, a person designated by a party to represent the party.~~
- ~~(7) Board—The nine-member Texas State Board of Examiners of Psychologists.~~
- ~~(8) Board member—One of the members of the Board, appointed pursuant to the Act, §501.051, and qualified under the Act, §501.051, §501.052 and §501.053.~~
- ~~(9) Chair—The chairperson of the Board.~~
- ~~(10) Complainant—A party bringing a complaint under the Act.~~

- ~~(11) Complaint—An action over which the Board has jurisdiction filed against any individual who violates the Act and/or Rules of the Board.~~
- ~~(12) Contested case—A proceeding, including, but not restricted to licensing and disciplinary action in which the legal rights, duties, or privileges of a party are to be determined by the Board after an opportunity for an adjudicative hearing.~~
- ~~(13) Disciplinary Review Panel—Committee appointed by the Chair, including at least one public member, to conduct informal settlement conferences concerning disciplinary actions and to make recommendations to the Board.~~
- ~~(14) Executive Director—The executive director of the Board designated in accordance with the Act, §501.101.~~
- ~~(15) License—The whole or part of any agency permit, approval, registration, or similar form of permission required by law.~~
- ~~(16) Licensee—Any individual or person to whom the agency has issued any permit, certificate, approved registration, or similar form of permission authorized by law.~~
- ~~(17) Licensing—The agency process respecting the granting, denial, renewal, revocation, suspension, annulment, withdrawal, or amendment of a license.~~
- ~~(18) Official act—Any act performed by the Board pursuant to a duty, right or responsibility imposed or granted by law.~~
- ~~(19) Party—Each person or agency named or admitted to participate as a party before the Board or the State Office of Administrative Hearings.~~
- ~~(20) Person—An individual, representative, corporation, or an agency or instrumentality of government.~~
- ~~(21) Pleading—A written document submitted by a party or a person seeking to participate in a case as a party, which requests procedural or substantive relief, makes claims, alleges facts, makes legal argument, or otherwise addresses matters involved in the case.~~

- ~~(22) Presiding officer—The chair, the acting chair of the Board, or a duly authorized administrative law judge while acting with respect to a hearing.~~
- ~~(23) Public health agency—The Board is a public health agency.~~
- ~~(24) Respondent—An individual over whom the Board has jurisdiction and against whom a complaint is filed.~~
- ~~(25) Rule—Any agency statement of general applicability that implements or prescribes law or policy by defining general standards of conduct, rights, or obligations of persons, or describes the procedure or practice requirements that prescribe the manner in which public business before an agency may be initiated, scheduled, or conducted, or interprets or clarifies law or agency policy, whether with or in the absence of an explicit grant of power to the agency to make rules. The term includes the amendment or repeal of a prior rule but does not include statements concerning only the internal management or organization of the agency and not affecting private rights or procedures. This definition includes regulations.~~
- ~~(26) State Office of Administrative Hearings (SOAH)—The agency to which contested cases are referred by the Texas State Board of Examiners of Psychologists.~~
- ~~(27) Texas Public Information Act—Texas Government Code, Chapter 552.~~

Rule: 470.3 Construction

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.3. Construction.~~

- ~~(a) A provision of a section referring to the Board is construed to apply to the Board or the chair if the matter is within the jurisdiction of the Board.~~
- ~~(b) Unless otherwise provided by law, any duty imposed on the Board or chair may be delegated to a duly authorized representative. In such case, the provisions of any section referring to the Board or the chair shall be construed to also apply to the duly authorized representative or chair.~~

Rule: 470.4 Records of Official Action

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.4. Records of Official Action. All official acts of the Board shall be evidenced by a recorded or written record.~~

- ~~(1) The minutes of the Board shall constitute a written record. Such writings shall be open to the public in accordance with the Act and the Texas Open Records Act, Government Code Chapter 552. The Board may, in its discretion and in accordance with the open meetings law, Chapter 551, Government Code, conduct any portion of its meeting in executive session.~~
- ~~(2) The Board may in its discretion conduct deliberations relative to licensee disciplinary actions in executive session. At the conclusion of its deliberations relative to licensee disciplinary action, the board shall vote and announce its decision relative to the licensee in open session.~~
- ~~(3) Official action of the Board shall not be bound or prejudiced by any informal statement or opinion made by any member of the Board or the employees of the agency staff.~~

Rule: 470.5. Conduct and Decorum.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.5. Conduct and Decorum.~~

- ~~(a) Parties, authorized representatives, witnesses, and other participants in Board proceedings shall conduct themselves with proper dignity, courtesy, and respect for the Board, the executive director, the administrative law judge, and all other participants. Disorderly conduct will not be tolerated.~~
- ~~(b) All authorized representatives shall observe the standards of ethical conduct prescribed for their professions.~~
- ~~(c) The presiding officer may, at his or her discretion, exclude a violator of this rule from the proceeding for such period as is deemed just.~~
- ~~(d) Violation of rule 470.5 is grounds for imposition of Board disciplinary action.~~

Rule: 470.6. Agreement to be in Writing.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.6. Agreement to be in Writing. Unless otherwise provided in these rules, no agreement between the parties or their authorized representatives regarding any contested case or other matter before the Board shall be enforced unless it is in writing, signed, and filed with the Board, or unless it is entered on the record at a hearing.~~

Rule: 470.8. Information Disposition of Complaints.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.8. Information Disposition of Complaints.~~

~~(a) Complaints.~~

- ~~(1) Unless precluded by law, informal disposition may be made of any contested case by stipulation, agreed settlement, consent order, default, or dismissal in accordance with §2001.056 of the Administrative Procedure Act.~~
- ~~(2) Prior to the imposition of disciplinary sanction(s) against a license, the licensee shall be offered an opportunity to attend an informal conference and show compliance with all requirements of law, in accordance with §2001.054(c) of the Administrative Procedure Act.~~
- ~~(3) Informal conferences shall be conducted by the Chair of the Disciplinary Review Panel. The conference shall also be attended by the designated representative, legal counsel of the agency or an attorney employed by the office of the attorney general, and other representative(s) of the agency as the executive director and legal counsel may deem necessary for proper conduct of the conference. The licensee and/or the licensee's authorized representative(s) may attend the informal conference and shall be provided an opportunity to be heard and to present witnesses, affidavits, letters, reports, and any information deemed relevant for the Board's consideration in the matter. The licensee's attendance and participation is voluntary.~~
- ~~(4) In any case where charges are based upon information provided by a person (complainant) who filed a complaint with the Board, the complainant may attend the informal conference. A complainant who chooses to attend an informal conference shall be provided an opportunity to be heard, at a time separate from the respondent, with regard to violations based upon the information provided by~~

~~the complainant. Nothing herein requires a complainant to attend an informal conference.~~

~~(5) Informal conferences shall not be deemed meetings of the Board and no formal record of the proceedings at such conferences shall be made or maintained. Any informal record of conferences shall be made by mechanical or electronic means at the discretion of the Committee Chair.~~

~~(6) Any proposed consent order shall be presented to the Board for its review. At the conclusion of its review, the Board shall approve or disapprove the proposed consent order. Should the Board approve the proposed consent order, the appropriate notation shall be made in the minutes of the Board; and the proposed consent order shall be entered as an official action of the Board. Should no agreement be entered into, the Board may refer the matter to SOAH for a formal hearing.~~

~~(b) Confidentiality of Informal Settlement Conferences. The Panel may take any and all steps necessary to ensure the confidentiality of the informal settlement conference in accordance with §501.205 of the Act, including, but not limited to, conducting the entirety of the conference in executive session.~~

Rule: 470.9. Witness Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.9. Witness Fees. Persons appearing as witnesses before the Board in an administrative hearing process (i.e., depositions, hearings, meetings, etc.) will receive reimbursement for expenses incurred. These expenses include travel, lodging, and up to \$40 per day for meals and other expenses. Airfare is reimbursed at the lowest available fare.~~

Rule: 470.10. Subpoenas

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.10. Subpoenas. On its own motion or, on the written request of any party to a contested case pending before it, for good cause shown and on deposit of sums that will reasonably ensure payment of the amounts estimated to accrue under Administrative Procedure Act, Tex. Gov't Code Ann. §2001.103 (relating to expenses of witness or deponent), the agency shall issue a subpoena addressed to the sheriff or to a constable to require the attendance of a witness or the production of books, records, papers, or other objects that may be necessary and proper for the purpose of a proceeding.~~

Rule: 470.11. Service in Non-Rulemaking Proceedings.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.11. Service in Non Rulemaking Proceedings. Where service of notice by the agency is required, all parties shall be notified either personally, by first class mail, or by certified mail, return receipt requested, to the party's last known mailing address as shown in Board records. If any party has appeared by attorney or other representative, service shall be made by the methods above upon such attorney or representative.~~

Rule: 470.12. Contested Cases Referred to the State Office of Administrative Hearings.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.12. Contested Cases Referred to the State Office of Administrative Hearings. Unless otherwise provided by statute, contested cases referred by the Board to the State Office of Administrative Hearings pursuant to the Administrative Procedure Act (APA), Texas Government Code, Chapter 2001, will be governed by the rules of practice and procedure in accordance with Title 1, Chapter 155 of the Texas Administrative Code and applicable sections of the APA.~~

Rule: 470.15. Proposal for Decision.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.15. Proposal for Decision.~~

- ~~(a) In a contested case, upon completion of the hearing before SOAH, the ALJ shall prepare a proposal for decision to the agency and serve a copy of the proposal for decision upon each party. The Board may request that the proposal for decision be presented to the board by the ALJ at the next scheduled Board meeting.~~
- ~~(b) A proposal for decision shall contain a statement by the ALJ of the reasons for the proposed decision and of each finding of fact and conclusion of law necessary to the proposed decision.~~
- ~~(c) Upon issuance of a proposal for decision by an ALJ in a contested case, any party may file written exceptions to the proposal for decision within fifteen (15) days after its issuance. Within fifteen (15) days after a party files written exceptions under this section, any other party may file a written reply.~~
- ~~(d) A proposal for decision may be amended by the ALJ in response to exceptions, replies and/or briefs submitted by the parties without again being served on the parties.~~

Rule: 470.16. Final Decision.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.16. Final Decision.~~

- ~~(a) Any final decision or order adverse to a party in a contested case shall be in writing.~~
- ~~(b) A final decision shall include findings of fact and conclusions of law, separately stated.~~
- ~~(c) A party in a contested case shall be notified either personally or by first class mail of any decision or order.~~
- ~~(d) When the Board issues a final decision or order ruling on a motion for rehearing, the agency shall send a copy of that final decision or order by first class mail to the attorney of record and to the represented party. The agency shall keep an appropriate record of the mailing.~~
- ~~(e) A party or attorney of record notified by mail of a final decision or order as required by this subsection shall be presumed to have been notified on the date such notice is mailed.~~
- ~~(f) A decision in a contested case is final:~~
 - ~~(1) if a motion for hearing is not filed on time, on the expiration of the period for filing a motion for rehearing;~~
 - ~~(2) if a motion for rehearing is filed on time, on the date:~~
 - ~~(A) the order overruling the motion for rehearing is rendered;~~
~~or~~
 - ~~(B) the motion is overruled by operation of law;~~
 - ~~(3) if the Board finds that an imminent peril to the public health, safety, or welfare requires immediate effect of a decision or order, on the date the decision is rendered; or~~

- (4) ~~on the date specified in the order for a case in which all parties agree on the specified date in writing or on the record, if the specified date is not before the date the order is signed or later than the 20th day after the date the order was rendered.~~
- (g) ~~If a decision or order is final under subsection (f)(3), the Board shall recite in the decision or order the finding made under Subsection (f)(3) and the fact that the decision or order is final and effective on the date rendered.~~
- (h) ~~As the Board has been created by the legislature to protect the public interest as an independent agency of the executive branch of the government of the State of Texas so as to remain the primary means of licensing and regulating the practice of psychology consistent with federal and state law and to ensure that sound principles of psychology govern the decisions of the Board, the Board may, in accordance with §2001.058 of the APA, change a finding of fact or conclusion of law or to vacate or modify the proposed order of an ALJ, if the Board determines:~~

 - (1) ~~that the administrative law judge did not properly apply or interpret applicable law, agency rules, written policies provided under §2001.058(c), or prior administrative decisions;~~
 - (2) ~~that a prior administrative decision on which the administrative law judge relied is incorrect or should be changed; or~~
 - (3) ~~that a technical error in a finding of fact should be changed.~~
- (i) ~~If the Board modifies, amends or changes the ALJ's proposal for decision, an order shall be prepared reflecting the Board's changes as stated in the record.~~

Rule: 470.17. Motion for Rehearing.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.17. Motion for Rehearing.~~

- ~~(a) A motion for rehearing is a prerequisite to appeal from a Board's final decision or order in a contested case. A motion for rehearing shall be filed and handled in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.~~
- ~~(b) The Executive Director is authorized to grant or deny, at his or her own discretion, requests to extend the deadline for filing a motion for rehearing in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.~~
- ~~(c) In the event of an extension, the motion for rehearing may be overruled by operation of law in accordance with Tex. Gov't. Code Chapter 2001, Subchapter F.~~

Rule: 470.18. The Record.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.18. The Record. The record in a contested case includes:~~

- ~~(1) each pleading, motion, and intermediate ruling;~~
- ~~(2) evidence received or considered by the Board;~~
- ~~(3) a statement of matters officially noticed;~~
- ~~(4) questions and offers of proof, objections, and rulings on them;~~
- ~~(5) proposed findings of fact and conclusions of law, as well as exceptions thereto;~~
- ~~(6) each decision, opinion, or report made by the administrative law judge; and~~
- ~~(7) all staff memoranda or data submitted to or considered by the administrative law judge or Board decision makers.~~

Rule: 470.19. Cost of Appeal.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.19. Cost of Appeal. A party appealing a final decision of the Board in a contested case may be ordered by the Board to pay all or a part of the cost of preparation of the original or a certified copy of the record of the proceeding that is required to be transmitted to the reviewing Court.~~

Rule: 470.20. Computation of Time.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.20. Computation of Time. In computing time periods prescribed by these rules, or by order of the agency, the day of the act, event or default on which the designated period of time begins to run is not included. The last day of the period is included, unless it is a Saturday, Sunday, or legal holiday, in which case the time period will end on the next day that the agency is open.~~

Rule: 470.21. Disciplinary Guidelines.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.21. Disciplinary Guidelines.~~

~~(a) Purpose. The Purpose of the guidelines is to:~~

- ~~(1) Provide guidance and a framework of analysis for administrative law judges in the making of recommendations in contested licensure and disciplinary matters;~~
- ~~(2) Promote consistency in the exercise of sound discretion by the Board in the imposition of sanctions in disciplinary matters; and~~
- ~~(3) Provide guidance for the resolution of potentially contested matters.~~

~~(b) Limitations. The Board shall render the final decision in a contested case and has the responsibility to assess sanctions against licensees who are found to have violated the Act. The Board welcomes recommendations of administrative law judges as to the sanctions to be imposed, but the Board is not bound by such recommendations. A sanction should be consistent with sanctions imposed in other similar cases and should reflect the Board's determination of the seriousness of the violation and the sanction required to deter future violations. A determination of the appropriate sanction is reserved to the Board. The appropriate sanction is not a proper finding of fact or conclusion of law. This chapter shall be construed and applied so as to preserve the Board's discretion in the imposition of sanctions and remedial measures pursuant to the Act's provisions related to methods of discipline and administrative penalties. This chapter shall be further construed and applied so as to be consistent with the Act, and shall be limited to the extent as otherwise proscribed by statute and Board rule.~~

~~(c) The Board's rules concerning disciplinary guidelines, schedule of sanctions, and aggravating and mitigating circumstances are not intended to be exhaustive. The Board may recommend revocation for licensees who violate one or more Board rules.~~

(d) ~~Disciplinary Sanctions. If the Board does not revoke a license in connection with a disciplinary matter, it may impose the following disciplinary sanctions which are listed in descending order of severity:~~

- ~~(1) Suspension for a definite period of time;~~
- ~~(2) Suspension plus probation of any or all of the suspension period;~~
- ~~(3) Probation of the license for a definite period of time;~~
- ~~(4) Reprimand; and~~
- ~~(5) Administrative penalty.~~

(e) ~~Additional conditions. As terms of any sanction imposed by the Board upon a licensee pursuant to a disciplinary matter the Board may, at its discretion, impose any additional conditions and/or restrictions upon the license of the licensee that the Board deems necessary to facilitate the rehabilitation and education of the licensee and to protect the public, including but not limited to:~~

- ~~(1) Consultation with the licensee on matters of ethics rules, laws and standards of practice by a licensed psychologist approved by the Board;~~
- ~~(2) Restrictions on the licensee's ability to provide certain types of psychological services or to provide psychological services to certain classes of patients;~~
- ~~(3) Restrictions on the licensee's supervision of others in the practice of psychology;~~
- ~~(4) Completion of a specified number of continuing education hours on specified topics approved in advance by the Board in addition to any minimum number required of all licensees as a condition of licensure;~~
- ~~(5) Taking and passing with the minimum required score of any examination required by the Board of a licensee;~~
- ~~(6) Undergoing a psychological and/or medical evaluation by a qualified professional approved in advance by the Board and undergoing any treatment recommended pursuant to the evaluation;~~
- ~~(7) Writing a research paper on a specific topic;~~

~~(8) Any other condition reasonably related to the rehabilitation and education of the licensee.~~

~~(f) The length of the sanction period shall be determined by the Board taking into account the time reasonably required to complete the required terms and conditions set forth in the order imposing the sanction.~~

Rule: 470.22. Schedule of Sanctions.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.22. Schedule of Sanctions.~~

~~(a) These disciplinary sanction guidelines are designed to provide guidance in assessing sanctions for violations of the Psychologists' Licensing Act and Board Rules of conduct. The ultimate purpose of disciplinary sanctions is to protect the public, deter future violations, offer opportunities for rehabilitation if appropriate, punish violators, and deter others from violations. These guidelines are intended to promote consistent sanctions for similar violations, facilitate timely resolution of cases, and encourage settlements.~~

~~(1) Single Violation. The standard sanctions outlined below shall apply to cases involving a single violation of the Act, and in which there are no aggravating or mitigating factors that apply.~~

~~(2) Multiple Violations. The board may impose more restrictive sanctions when there are multiple violations of the Act.~~

~~(3) Aggravating and Mitigating Factors. The Board may impose more or less severe or restrictive sanctions, based on any aggravating and/or mitigating factors listed in §470.23 of this chapter (relating to Aggravating and Mitigating Circumstances) that are found to apply in a particular case.~~

~~(4) The standard and minimum sanctions outlined below are applicable to first time violators. The Board shall consider more severe sanctions if the person is a repeat offender.~~

~~(5) The maximum sanction in all cases is revocation of the license, which may be accompanied by an administrative penalty of up to \$1,000 per violation. In accordance with §501.452 of the Act, each day the violation continues is a separate violation.~~

~~(6) Each violation constitutes a separate offense, even if arising out of a single act.~~

~~(7) Failure to list a type of violation or Board Rule in this rule does not prevent the Board from taking disciplinary action for such a violation.~~

~~(8) If a sanction for a violation of Board Rules is not listed in this rule, or specifically stated elsewhere in laws, the default sanction shall be a reprimand.~~

~~(9) Notwithstanding paragraph (8) of this subsection, the Board will evaluate and determine, on a case-by-case basis, the appropriate sanction for an individual with a qualifying conviction under §501.401(2) of the Act, as well as for an individual found to be incompetent under §501.158 of the Act.~~

~~(b) The following standard sanctions shall apply to violations of the Act and Rules.~~

Rule: 470.23. Aggravating and Mitigating Circumstances.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.23. Aggravating and Mitigating Circumstances.~~

~~(a) Aggravating Circumstances. Aggravating circumstances are those which may increase the severity of a rule violation, justifying the imposition of a more severe penalty. Such circumstances include but are not limited to the following:~~

~~(1) Patient harm and the type and severity thereof;~~

~~(2) Economic harm to any individual or entity and the severity thereof;~~

~~(3) Increased potential for harm to the public;~~

~~(4) Attempted concealment of misconduct;~~

~~(5) Premeditated conduct;~~

~~(6) Intentional misconduct;~~

~~(7) Prior written warnings or written admonishments from any supervisor or governmental agency or official regarding statutes or regulations pertaining to the licensee's practice of psychology;~~

~~(8) Prior misconduct of a similar or related nature;~~

~~(9) Disciplinary history;~~

~~(10) Likelihood of future misconduct of a similar nature;~~

~~(11) Violation of a Board order;~~

~~(12) Failure to implement remedial measures to correct or alleviate harm arising from the misconduct;~~

~~(13) Lack of rehabilitative potential;~~

~~(14) — Motive and intent; and~~

~~(15) — Any relevant circumstances or facts increasing the level of violation.~~

~~(b) — Mitigating Circumstances. Mitigating circumstances are those which may reduce the severity of a less severe penalty. Such circumstances include the absence of aggravating circumstances listed above as and the presence of one or more of the following:~~

~~(1) — Acceptance of responsibility;~~

~~(2) — Self reported rule violations;~~

~~(3) — Implementation of remedial measures to correct or mitigate harm arising from the misconduct;~~

~~(4) — Motive;~~

~~(5) — Rehabilitative potential;~~

~~(6) — Prior community service;~~

~~(7) — Relevant facts and circumstances reducing the seriousness of the violation; and~~

~~(8) — Relevant facts and circumstances lessening responsibility for the violation.~~

Rule: 470.24. Enforcement of Orders, Decisions, and Rules.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~470.24. Enforcement of Orders, Decisions, and Rules.~~

~~(a) When it appears to the Board that a person is violating, about to violate, or failing or refusing to comply with a final order or decision or an agency rule, the agency may request that the attorney general bring an action in a district court in Travis County, Texas to exercise judicial review of the final order or decision or the rule, to~~

~~(1) enjoin or restrain the continuation or commencement of the violation, or~~

~~(2) compel compliance with the final order or decision or the rule.~~

~~(b) The action authorized by this rule is in addition to any other remedy provided by law.~~



**Draft Revised Rules (Schedule of Sanctions)
for
Texas State Board of Examiners of
Psychologists**

Schedule of Sanctions

The following standard sanctions shall apply to violations of Chapter 501 and 22 TAC Part 21.

Figure: 22 TAC §00.00

<u>Board Rule</u>	<u>Revocation</u>	<u>Suspension</u>	<u>Probated Suspension</u>	<u>Reprimand</u>	<u>Administrative Penalty</u>
465.2				X	
465.4				X	
465.6(a) & (b)				X	
465.6(c)					X
465.8			X		
465.9(a), (d), (e), & (f)			X		
465.9(b)-(c) & (g)-(j)				X	
465.10			X		
465.11				X	
465.12(a) & (d)-(i)			X		
465.12(b) & (c)				X	
465.13(a)(1)-(2) & (b)(4)		X			
465.13(a)(4) & (b)(1)-(3)			X		
465.13(a)(3) & (b)(5)	X				
465.14				X	
465.15(a) & (b)(2)-(5)				X	
465.15(b)(1)	X				
465.16(a)				X	
465.16(b)-(e)			X		
465.17(a)(1)-(2)			X		
465.17(a)(3)	X				
465.17(b)				X	
465.18(a)-(c) & (e)-(h)			X		
465.18(d)				X	
465.20				X	
465.21			X		
465.22(a)(1)-(6) & (b)-(e)				X	
465.22(a)(7)		X			
465.32					X
465.33(e) as it relates to sexual harassment and sexual impropriety			X		
465.33(e) as it relates to a sexual relationships and (g)	X				
465.33(f)		X			
465.34				X	
465.35(a) & (b)				X	
465.38				X	

REPEAL CHAPTER 471 RENEWALS

Rule: 471.1. Renewal of a License.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.1. Renewal of a License.~~

- ~~(a) All licenses issued by the Board shall be subject to annual renewal through August 31, 2019. Effective September 1, 2019, all licenses issued by this agency are renewable on a biennial basis and must be renewed online.~~
- ~~(b) Renewals are due on the last day of the license holder's birth month, but may be completed up to 60 days in advance.~~
- ~~(c) Licensees must pay all applicable renewal and late fees, indicate compliance with the professional development requirements set out in Board rule §461.11 of this title (relating to Professional Development), provide a standardized set of information about their training and practices or update this information prior to renewal, and comply with any other requirements set out in agency renewal forms as a prerequisite for renewal of a license. Licensed psychologists must also update their online profile information when renewing their license. A license may not be renewed until a licensee has complied with the requirements of this rule.~~
- ~~(d) A licensee who falsely reports compliance with Board rule §461.11 of this title on his or her renewal form or who practices with a license renewed under false pretenses will be subject to disciplinary action.~~
- ~~(e) Licensees will be sent notification of their approaching renewal date at least 30, but not more than 90 days before their renewal date. This notification will be sent to the licensee's address of record via first class mail. Responsibility for renewing a license rests exclusively with the licensee, and the failure of the licensee to receive the reminder notification from the Board shall not operate to excuse a licensee's failure to timely renew a license. Licensees who do not timely renew their license will be sent a second notice informing them that their license has become delinquent. The second notice will be sent to the licensee's address of record via certified or register mail. Failure of a licensee to receive the~~

~~second notification shall not operate to excuse the failure to timely renew a license or any unlawful practice with a delinquent license.~~

- ~~(f) Notwithstanding subsection (a) of this section, effective September 1, 2019 one-half of the individuals licensed by this agency will be selected and required to renew their license(s) on a one-time basis for one year, after which their renewal period will be automatically converted to the biennial renewal period. The renewal fee for a license renewed under this subsection shall be one-half of the biennial renewal fee for the particular license, together with the appropriate Office of Patient Protection and Texas.gov subscription fees. The professional development requirements for a license renewed under this paragraph shall also be reduced to one-half of the professional development requirements under Board rule §461.11 of this title.~~

Rule: 471.3. Initial License Renewal Dates.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.3. Initial License Renewal Dates~~

- ~~(a) The license expiration date for a license issued by this agency is the last day of the licensee's birth month.~~
- ~~(b) The initial renewal date for a license issued or reinstated by this agency shall be set as follows:
 - ~~(1) A license issued or reinstated within 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of two years from the date of issuance or reinstatement.~~
 - ~~(2) A license issued or reinstated more than 180 days prior to the last day of a licensee's birth month shall be set for renewal on the next expiration date following a period of one year from the date of issuance or reinstatement.~~~~
- ~~(c) Following the initial renewal dates set forth in subsection (b) of this section, a license shall become subject to the standard renewal schedule and requirements.~~
- ~~(d) Notwithstanding subsection (b) of this section, for individuals with more than one license, the initial renewal date for a newly issued or reinstated license shall coincide with the individual's existing license renewal date.~~

Rule: 471.4. Nonrenewal for Default of Guaranteed Student Loan.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.4. Nonrenewal for Default of Guaranteed Student Loan.~~

- ~~(a) The Board will not renew the license of a licensee identified by the Texas Guaranteed Student Loan Corporation as a person in default on a guaranteed student loan or repayment agreement, unless the licensee presents the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating that they are not in default on a guaranteed loan or that they have entered into a repayment agreement.~~
- ~~(b) Prior to the nonrenewal of any license under this rule, a licensee shall be notified that the Texas Guaranteed Student Loan Corporation has identified the licensee as being in default on a guaranteed student loan or repayment agreement. If the licensee then submits a certificate from the Texas Guaranteed Student Loan Corporation indicating that they are not in default on a guaranteed loan or that they have entered into a repayment agreement, the licensee will be permitted to renew their license. Alternatively, the licensee may submit a written request to the Board for a hearing at which the licensee may present the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating they are not in default on a guaranteed loan or that they have entered into a repayment agreement. The Board must receive the request for a hearing on or before the 30th day following the date of the notice sent to the licensee. If a timely request is made, the Board shall conduct a hearing at the next available board meeting. If a timely request is not made, no hearing will be held and the licensee's license will not be renewed unless prior to their renewal date, the licensee provides the Board with a certificate from the Texas Guaranteed Student Loan Corporation indicating they are not in default on a guaranteed loan or that they have entered into a repayment agreement.~~

Rule: 471.5. Updated Information Requirements.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.5. Updated Information Requirements. Each licensee shall provide the following information when renewing his/her license each year:~~

- ~~(1) Any of those matters which the licensee is required to report under Board rule §469.11 of this title (relating to Legal Actions Reported and Reciprocal Discipline.~~
- ~~(2) The names of all jurisdictions where the licensee currently holds a license to practice psychology;~~
- ~~(3) If the licensee has complied with the annual requirements for professional development;~~
- ~~(4) If the licensee has a guaranteed student loan in default; and~~
- ~~(5) If the licensee is currently in default of any court-ordered child support.~~

Rule: 471.6. Renewal Terms Exclusive to Licensees on Active Military Duty.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~471.6. ——— Renewal Terms Exclusive to Licensees on Active Military Duty.~~

- ~~(a) ——— Licensees serving on active duty, as defined by Tex. Occ. Code Ann. §55.001, may request a waiver from the professional development requirements and renewal fees associated with the renewal of their license. Licensees who submit a written request to the Board prior to their renewal date each renewal period, and provide the Board with official verification of active duty status during their renewal period, will be granted a waiver from the professional development requirements and renewal fees associated with the renewal of their license for that renewal period.~~
- ~~(b) ——— Licensees with an expired or delinquent license may request their license be reinstated or returned to active status if they would have been eligible for a waiver under subsection (a) of this section prior to their license expiring or becoming delinquent. Licensees seeking relief under this subsection must do so within two years of their license becoming delinquent.~~

REPEAL CHAPTER 473 Fees

Rule: 473.1. Application Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.1. Application Fees.~~

~~(a) Application Fees for Original or Initial Applications for Licensure:~~

~~(1) Licensed Psychological Associate: \$300~~

~~(2) Provisionally Licensed Psychologist: \$445~~

~~(3) Licensed Psychologist: \$381~~

~~(4) Licensed Specialist in School Psychology: \$275~~

~~(b) Application Fee for Reinstatement of a License—\$200~~

~~(c) In addition to the application fees set forth above, applicants must also pay a \$5 Office of Patient Protection fee for each application submitted.~~

~~(d) Application fees are nonrefundable and cannot be waived except as otherwise stated herein.~~

~~(e) All license application fees payable to the Board are waived for the following individuals:~~

~~(1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all of the requirements for licensure; and~~

~~(2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has~~

~~licensing requirements that are substantially equivalent to the requirements of this state.~~

Rule: 473.2. Examination Fees (Non-Refundable)

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.2. Examination Fees (Non-Refundable).~~

~~(a) Generally Applicable Examination Fees:~~

~~(1) Examination for the Professional Practice of Psychology—\$600~~

~~(2) Jurisprudence Examination—\$234. A portion of this fee, \$34, goes to the third-party vendor that administers the examination on behalf of the Board.~~

~~(b) The portion of the Jurisprudence Examination fee attributable to the Board, shall be waived for the following individuals:~~

~~(1) military service members and military veterans, as those terms are defined by Chapter 55, Occupations Code, whose military service, training, or education substantially meets all of the requirements for licensure; and~~

~~(2) military service members, military veterans, and military spouses, as those terms are defined by Chapter 55, Occupations Code, who hold a current license issued by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements of this state.~~

Rule: 473.3. Biennial Renewal Fees (Not Refundable)

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.3. Biennial Renewal Fees (Not Refundable)~~

~~(a) Biennial License Renewal Fees:~~

~~(1) Licensed Psychological Associate: \$230;~~

~~(2) Provisionally Licensed Psychologist: \$220;~~

~~(3) Licensed Psychologist: \$412; and~~

~~(4) Licensed Specialist in School Psychology: \$120.~~

~~(b) Notwithstanding subsection (a) of this section, the license renewal fee is \$20 for an individual 70 years of age or older, regardless of the type of license held.~~

~~(c) The renewal fee for the Psychologist Health Service Provider status issued by this agency is \$40.~~

~~(d) In addition to the renewal fees set forth above, licensees must also pay the following fees in connection with the renewal of a license:~~

~~(1) A \$1 Office of Patient Protection fee for each year in the renewal period; and~~

~~(2) A Texas.gov subscription fee for each year in the renewal period in the following amount(s):~~

~~(A) \$5 per license for psychologists;~~

~~(B) — \$3 per license for provisionally licensed psychologists and licensed psychological associates; and~~

~~(C) — \$2 per license for licensed specialist in school psychology.~~

~~(e) — Notwithstanding subsection (d) of this section, licensees 70 years of age and older must pay a \$2 Texas.gov subscription fee per license, regardless of the license type.~~

Rule: 473.4. Late Fees for Renewals

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.4. Late Fees for Renewals.~~

- ~~(a) For a license expired ninety days or less, a licensee must pay a late fee in an amount equal to one and one-half times the required renewal fee.~~
- ~~(b) For a license expired more than ninety days but less than one year, a licensee must pay a late fee in an amount equal to two times the required renewal fee.~~
- ~~(c) Late renewal fees are nonrefundable and cannot be waived.~~

Rule: 473.5. Miscellaneous Fees (Not Refundable)

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.5. Miscellaneous Fees (Not Refundable).~~

~~(a) Duplicate or Replacement Calligraphy License \$25.~~

~~(b) Inactive Status \$100.~~

~~(c) Remailing of License \$10.~~

~~(d) Returned Check Fee \$25.~~

~~(e) Analysis of Jurisprudence Examination \$50.~~

~~(f) Cost of Duplicate or Replacement annual renewal permit \$10.~~

~~(g) Limited Temporary License \$100.~~

~~(h) Preliminary Evaluation of Eligibility for Licensure of Person with Criminal Record \$150.~~

~~(i) Written Verification of License:~~

~~(1) Without State Seal \$30~~

~~(2) With State Seal \$50~~

~~(j) Mailing List \$100.~~

Rule: 473.8. Open Records Fees.

Action: Proposed Repeal

Comment: The repeal of this rule is necessary to comply with changes made by HB1501 during the 86th Legislative Session. The requirements set forth in this rule are being repealed because they are either no longer necessary or will be promulgated, either in whole or in part, by the Texas Behavioral Health Executive Council in connection with its duties and responsibilities under Occupations Code, Chapter 507.

~~473.8. — Open Records Fees. In accordance with Texas Government Code §552.262, the Board adopts by reference the rules developed by the Office of the Attorney General in 1 TAC Part 3, Chapter 70 (relating to Cost of Copies of Public Information) for use by each governmental body in determining charges under Texas Government Code, Chapter 552 (Public Information) Subchapter F (Charges for Providing Copies of Public Information). —~~

SUBCHAPTER A. GENERAL PROVISIONS.

§781.101. Purpose and Scope.

(a) This chapter implements the provisions in the Social Work Practice Act (Act), Texas Occupations Code, Chapter 505, concerning the licensure and regulation of social workers.

(b) The Act restricts the use of the titles "social worker," "licensed master social worker," "licensed social worker," "licensed baccalaureate social worker," "licensed clinical social worker" or any other title that implies licensure or certification in social work.

~~(c) This chapter covers the organization, administration, and general procedures and policies of the Texas State Board of Social Worker Examiners.~~

~~(d) The Act and this chapter apply to every licensee even if the licensee is involved in activities or services exempt under the Act, §505.003.~~

§781.102. Definitions. The following words and terms, when used in this chapter, shall have the following meanings, unless the context clearly indicates otherwise.

(1) Accredited colleges or universities--An educational institution that is accredited by an accrediting agency recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States

Department of Education Council on Higher Education Accreditation.

(2) Act--The Social Work Practice Act, Texas Occupations Code, Chapter 505, concerning the licensure and regulation of social workers.

~~(3) ALJ--An Administrative Law Judge within the State Office of Administrative Hearings who conducts hearings under this chapter.~~

(4) Agency--A public or private employer, contractor or business entity providing social work services.

~~(5) AMEC--Alternative method of examining competency, as referenced in Texas Occupations Code, §505.356(3), regarding reexamination.~~

~~(6) APA--The Administrative Procedure Act, Government Code, Chapter 2001.~~

(7) Assessment--An ongoing process of gathering information about and reaching an understanding of the client or client group's characteristics, perceived concerns and real problems, strengths and weaknesses, and opportunities and constraints; assessment may involve administering, scoring and interpreting instruments designed to measure factors about the client or client group.

(8) Association of Social Work Boards (ASWB)--The international organization which represents regulatory boards of social work

and administers the national examinations utilized in the assessment for licensure.

(9) Board--Texas State Board of Social Worker Examiners.

(10) Case record--Any information related to a client and the services provided to that client, however recorded and stored.

(11) Client--An individual, family, couple, group or organization that receives social work services from a person identified as a social worker who is ~~either licensed or unlicensed~~ by the ~~board~~Council.

(12) Clinical social work--A specialty within the practice of master social work that requires applying social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, and/or persons who are adversely affected by social or psychosocial stress or health impairment. Clinical social work practice involves using specialized clinical knowledge and advanced clinical skills to assess, diagnose, and treat mental, emotional, and behavioral disorders, conditions and addictions, including severe mental illness and serious emotional disturbances in adults, adolescents and children. Treatment methods may include, but are not limited to, providing individual, marital, couple, family,

and group psychotherapy. Clinical social workers are qualified and authorized to use the Diagnostic and Statistical Manual of Mental Disorders (DSM), the International Classification of Diseases (ICD), Current Procedural Terminology (CPT) codes, and other diagnostic classification systems in assessment, diagnosis, and other practice activities. The practice of clinical social work is restricted to either a Licensed Clinical Social Worker, or a Licensed Master Social Worker under clinical supervision in employment or under a clinical supervision plan.

~~**(13) Commission--**Health and Human Services Commission.~~

(14) Confidential information--Individually identifiable information relating to a client, including the client's identity, demographic information, physical or mental health condition, the services the client received, and payment for past, present, or future services the client received or will receive. Confidentiality is limited in cases where the law requires mandated reporting, where third persons have legal rights to the information, and where clients grant permission to share confidential information.

~~**(15) Completed application--**The official social work application form, fees and all supporting documentation which meet the criteria set out in this chapter.~~

(16) Conditions of exchange--Setting reimbursement rates or fee structures, as well as business rules or policies involving issues such as setting and cancelling appointments, maintaining office hours, and managing insurance claims.

~~_(17) Contested case--A proceeding in accordance with the APA and this chapter, including, but not limited to, rule enforcement and licensing, in which the board determines the party's legal rights, duties, or privileges after the party has an opportunity for a hearing.~~

(18) Counseling, clinical--The use of clinical social work to assist individuals, couples, families or groups in learning to solve problems and make decisions about personal, health, social, educational, vocational, financial, and other interpersonal concerns.

(19) Counseling, supportive--The methods used to help individuals create and maintain adaptive patterns. Such methods may include, but are not limited to, building community resources and networks, linking clients with services and resources, educating clients and informing the public, helping clients identify and build strengths, leading community groups, and providing reassurance and support.

(20) Council—the Texas Behavioral Health Executive Council.

(20) Consultation--Providing advice, opinions and conferring

with other professionals regarding social work practice.

(21) Continuing education--Education or training aimed at maintaining, improving, or enhancing social work practice.

(22) Council on Social Work Education (CSWE)--The national organization that accredits social work education schools and programs.

(23) Direct practice--Providing social work services through personal contact and immediate influence to help clients achieve goals.

(24) Dual or multiple relationship--A relationship that occurs when social workers interact with clients in more than one capacity, whether it be before, during, or after the professional, social, or business relationship. Dual or multiple relationships can occur simultaneously or consecutively.

(25) Electronic practice--Interactive social work practice that is aided by or achieved through technological methods, such as the web, the Internet, social media, electronic chat groups, interactive TV, list serves, cell phones, telephones, faxes, and other emerging technology.

~~(26) Endorsement--The process whereby the board reviews licensure requirements a professional has completed while under another jurisdiction's regulatory authority. The board~~

~~may accept, deny or grant partial credit for requirements completed in a different jurisdiction.~~

(27) Examination--A standardized test or examination, approved by the ~~board~~ Council, which measures an individual's social work knowledge, skills and abilities.

(28) Equivalent or substantially equivalent – a licensing standard or requirement for an out-of-state license that is equal to or greater than a Texas licensure requirement shall be deemed equivalent or substantially equivalent.

(29) Executive Director—the executive director for the Texas Behavioral Health Executive Council. The executive director may delegate responsibilities to other staff members.

(28) Exploitation--Using a pattern, practice or scheme of conduct that can reasonably be construed as primarily meeting the licensee's needs or benefitting the licensee rather than being in the best interest of the client. Exploitation involves the professional taking advantage of the inherently unequal power differential between client and professional. Exploitation also includes behavior at the expense of another practitioner. Exploitation may involve financial, business, emotional, sexual, verbal, religious and/or relational forms.

(29) Field placement--A formal, supervised, planned, and

evaluated experience in a professional setting under the auspices of a CSWE-accredited social work program and meeting CSWE standards.

~~**(30) Formal hearing--**A hearing or proceeding in accordance with this chapter, including a contested case as defined in this section to address the issues of a contested case.~~

(31) Fraud--A social worker's misrepresentation or omission about qualifications, services, finances, or related activities or information, or as defined by the Texas Penal Code or by other state or federal law.

(32) Full-time experience--Providing social work services thirty or more hours per week.

(33) Group supervision for licensure or for specialty recognition--Providing supervision to a minimum of two and a maximum of six supervisees in a designated supervision session.

(34) Health care professional--A licensee or any other person licensed, certified, or registered by the State of Texas in a health related profession.

(35) Impaired professional--A licensee whose ability to perform social work services is impaired by the licensee's physical health, mental health, or by medication, drugs or alcohol.

(36) Independent clinical practice--The practice of clinical social work in which the social

worker, after having completed all requirements for clinical licensure, assumes responsibility and accountability for the nature and quality of client services, pro bono or in exchange for direct payment or third party reimbursement. Independent clinical social work occurs in independent settings.

(37) Independent non-clinical practice--The unsupervised practice of non-clinical social work outside ~~the jurisdiction~~ of an organizational setting, in which the social worker, after having completed all requirements for independent non-clinical practice recognition, assumes responsibility and accountability for the nature and quality of client services, pro bono or in exchange for direct payment or third party reimbursement.

(38) Independent Practice Recognition--A specialty recognition related to unsupervised non-clinical social work at the LBSW or LMSW category of licensure, which denotes that the licensee has earned the specialty recognition, commonly called IPR, by successfully completing additional supervision which enhances skills in providing independent non-clinical social work.

(39) Individual supervision for licensure or specialty recognition--Supervision for professional development provided to one supervisee during the designated supervision session.

~~**(40)** Investigator--A commission employee or other authorized person whom the board uses to investigate allegations of professional misconduct.~~

(41) LBSW--Licensed Baccalaureate Social Worker.

(42) LCSW--Licensed Clinical Social Worker.

(43) License--A regular or temporary ~~board~~Council-issued license, including LBSW, LMSW, and LCSW. Some licenses may carry an additional specialty recognition, such as LMSW-AP, LBSW-IPR, or LMSW-IPR.

(44) Licensee--A person licensed by the ~~board~~Council to practice social work.

(45) LMSW--Licensed Master Social Worker.

(46) LMSW-AP--Licensed Master Social Worker with the Advanced Practitioner specialty recognition for non-clinical practice. This specialty recognition will no longer be conferred after September 1, 2017. Licensees under a ~~board~~Council-approved supervision plan for this specialty recognition before September 1, 2017 will be permitted to complete supervision and examination for this specialty recognition.

(47) Non-clinical social work--Professional social work which incorporates non-clinical work with individuals, families, groups, communities, and social systems which may involve locating

resources, negotiating and advocating on behalf of clients or client groups, administering programs and agencies, community organizing, teaching, researching, providing employment or professional development non-clinical supervision, developing and analyzing policy, fund-raising, and other non-clinical activities.

~~(48) Peer assistance program--A program designed to help an impaired professional return to fitness for practice.~~

(49) Person--An individual, corporation, partnership, or other legal entity.

(50) Psychotherapy--Treatment in which a qualified social worker uses a specialized, formal interaction with an individual, couple, family, or group by establishing and maintaining a therapeutic relationship to understand and intervene in intrapersonal, interpersonal and psychosocial dynamics; and to diagnose and treat mental, emotional, and behavioral disorders and addictions.

(51) Recognition--Authorization from the ~~board~~Council to engage in the independent or specialty practice of social work services.

(52) Rules--Provisions of this chapter specifying how the ~~board~~Council implements the Act, ~~how the board operates, and how individuals are affected by the Act~~as well as Title 22, Chapters

881-885 of the Texas Administrative Code.

(53) Social work case management--Using a bio-psychosocial perspective to assess, evaluate, implement, monitor and advocate for services on behalf of and in collaboration with the identified client or client group.

(54) Social worker--A person licensed under the Act.

(55) Social work practice--Services which an employee, independent practitioner, consultant, or volunteer provides for compensation or pro bono to effect changes in human behavior, a person's emotional responses, interpersonal relationships, and the social conditions of individuals, families, groups, organizations, and communities. Social work practice is guided by specialized knowledge, acquired through formal social work education. Social workers specialize in understanding how humans develop and behave within social environments, and in using methods to enhance the functioning of individuals, families, groups, communities, and organizations. Social work practice involves the disciplined application of social work values, principles, and methods including, but not limited to, psychotherapy; marriage, family, and couples intervention; group therapy and group work; mediation; case management; supervision and

administration of social work services and programs; counseling; assessment, diagnosis, treatment; policy analysis and development; research; advocacy for vulnerable groups; social work education; and evaluation.

(56) Supervisor, ~~board~~Council-approved--A person meeting the requirements set out in §781.402 of this title (relating to Clinical Supervision for LCSW and Non-Clinical Supervision for Independent Practice Recognition), to supervise a licensee towards the LCSW, Independent Practice Recognition, or as a result of a ~~board~~Council order. A ~~board~~Council-approved supervisor will denote having this specialty recognition by placing a "-S" after their credential initials, e.g., LBSW-S, LMSW-S or LCSW-S.

(57) Supervision--Supervision includes:

(A) administrative or work-related supervision of an employee, contractor or volunteer that is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure;

(B) clinical supervision of a Licensed Master Social Worker in a setting in which the LMSW is providing clinical services; the supervision may be provided by a Licensed Professional Counselor, Licensed

Psychologist, Licensed Marriage and Family Therapist, Licensed Clinical Social Worker or Psychiatrist. This supervision is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure;

(C) clinical supervision of a Licensed Master Social Worker, who is providing clinical services and is under a ~~board~~Council-approved supervision plan to fulfill supervision requirements for achieving the LCSW; a Licensed Clinical Social Worker who is a ~~board~~Council-approved supervisor delivers this supervision;

(D) non-clinical supervision of a Licensed Master Social Worker or Licensed Baccalaureate Social Worker who is providing non-clinical social work service toward qualifications for independent non-clinical practice recognition; this supervision is delivered by a ~~board~~Council-approved supervisor;

~~**(E)** supervision of a probationary Licensed Master Social Worker or Licensed Baccalaureate Social Worker providing non-clinical services by a board-approved supervisor toward licensure under the AMEC program; or~~

(F) ~~board~~Council-ordered supervision of a licensee by a ~~board~~Council-approved supervisor pursuant to a

disciplinary order or as a condition of new or continued licensure.

(58) Supervision hour--A supervision hour is a minimum of 60 minutes in length.

(59) Termination--Ending social work services with a client.

~~_(60) Texas Open Meetings Act-- Government Code, Chapter 551.~~

~~_(61) Texas Public Information Act-- Government Code, Chapter 552.~~

(62) Waiver--The suspension of educational, professional, and/or examination requirements for applicants who meet the criteria for licensure under special conditions based on appeal to the ~~board~~Council.

SUBCHAPTER B. ~~CODE OF CONDUCT AND PROFESSIONAL STANDARDS~~Rules OF PRACTICE.

§781.~~204~~301. Code of Conduct.

(a) A social worker must observe and comply with the code of conduct and standards of practice set forth in this subchapter. Any violation of the code of conduct or standards of practice will constitute unethical conduct or conduct that discredits or tends to discredit the profession of social work and is grounds for disciplinary action.

(1) A social worker shall not refuse to perform any act or service for which the person is licensed solely on the basis of a

client's age; gender; race; color; religion; national origin; disability; sexual orientation; gender identity and expression; or political affiliation.

(2) A social worker shall truthfully report her or his services, professional credentials and qualifications to clients or potential clients. ~~A social worker shall not advertise or claim a degree from a college or university which is not accredited by the Council on Higher Education Accreditation.~~

(3) A social worker shall only offer those services that are within his or her professional competency, and shall provide services within accepted professional standards of practice, appropriate to the client's needs.

(4) A social worker shall strive to maintain and improve her or his professional knowledge, skills and abilities.

(5) A social worker shall base all services on an assessment, evaluation or diagnosis of the client.

(6) A social worker shall provide the client with a clear description of services, schedules, fees and billing at the initiation of services.

(7) A social worker shall safeguard the client's rights to confidentiality within the limits of the law.

(8) A social worker shall be responsible for setting and maintaining professional boundaries.

(9) A social worker shall not have sexual contact with a client or a person who has been a client.

(10) A social worker shall refrain from providing services while impaired by physical health, mental health, medical condition, or by medication, drugs or alcohol.

(11) A social worker shall not exploit his or her position of trust with a client or former client.

(12) A social worker shall evaluate a client's progress on a continuing basis to guide service delivery and will make use of supervision and consultation as indicated by the client's needs.

(13) A social worker shall refer a client for those services that the social worker is unable to meet, and shall terminate services to a client when continuing to provide services is no longer in the client's best interest.

~~(b) The grounds for disciplinary action of a social worker shall be based on the code of conduct or standards of practice in effect at the time of the violation.~~

§781.202302. The Practice of Social Work.

(a) Practice of Baccalaureate Social Work--Applying social work

theory, knowledge, methods, ethics and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, organizations and communities. Baccalaureate Social Work is generalist practice and may include interviewing, assessment, planning, intervention, evaluation, case management, mediation, counseling, supportive counseling, direct practice, information and referral, problem solving, supervision, consultation, education, advocacy, community organization, and policy and program development, implementation, and administration.

(b) Practice of Independent Non-Clinical Baccalaureate Social Work--An LBSW recognized for independent practice, known as LBSW-IPR, may provide any non-clinical baccalaureate social work services in either an employment or an independent practice setting. An LBSW-IPR may work under contract, bill directly for services, and bill third parties for reimbursements for services. An LBSW-IPR must restrict his or her independent practice to providing non-clinical social work services.

(c) Practice of Master's Social Work--Applying social work theory, knowledge, methods and ethics and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals,

couples, families, groups, organizations and communities. An LMSW may practice clinical social work in an agency employment setting under clinical supervision, under a ~~board~~Council-approved supervision plan, or under contract with an agency when under a ~~board~~Council-approved clinical supervision plan. Master's Social Work practice may include applying specialized knowledge and advanced practice skills in assessment, treatment, planning, implementation and evaluation, case management, mediation, counseling, supportive counseling, direct practice, information and referral, supervision, consultation, education, research, advocacy, community organization and developing, implementing and administering policies, programs and activities. An LMSW may engage in Baccalaureate Social Work practice.

(d) Advanced Non-Clinical Practice of LMSWs--An LMSW recognized as an Advanced Practitioner (LMSW-AP) may provide any non-clinical social work services in either an employment or an independent practice setting. An LMSW-AP may work under contract, bill directly for services, and bill third parties for reimbursements for services. An LMSW-AP must restrict his or her practice to providing non-clinical social work services.

(e) Independent Practice for LMSWs--An LMSW recognized for independent practice may provide any non-clinical social work services in either an employment or an independent practice setting. This licensee is designated as LMSW-IPR. An LMSW-IPR may work under contract, bill directly for services, and bill third parties for reimbursements for services. An LMSW-IPR must restrict his or her independent practice to providing non-clinical social work services.

(f) Practice of Clinical Social Work--The practice of social work that requires applying social work theory, knowledge, methods, ethics, and the professional use of self to restore or enhance social, psychosocial, or bio-psychosocial functioning of individuals, couples, families, groups, and/or persons who are adversely affected by social or psychosocial stress or health impairment. The practice of clinical social work requires applying specialized clinical knowledge and advanced clinical skills in assessment, diagnosis, and treatment of mental, emotional, and behavioral disorders, conditions and addictions, including severe mental illness and serious emotional disturbances in adults, adolescents, and children. The clinical social worker may engage in Baccalaureate Social Work practice and Master's Social Work practice. Clinical treatment methods may include but are not limited to providing individual,

marital, couple, family, and group therapy, mediation, counseling, supportive counseling, direct practice, and psychotherapy. Clinical social workers are qualified and authorized to use the Diagnostic and Statistical Manual of Mental Disorders (DSM), the International Classification of Diseases (ICD), Current Procedural Terminology (CPT) Codes, and other diagnostic classification systems in assessment, diagnosis, treatment and other practice activities. An LCSW may provide any clinical or non-clinical social work service or supervision in either an employment or independent practice setting. An LCSW may work under contract, bill directly for services, and bill third parties for service reimbursements.

(g) A licensee who is not recognized for independent practice or who is not under a ~~board~~Council-approved non-clinical supervision plan must not engage in any independent practice that falls within the definition of social work practice in §781.102 of this title (relating to Definitions) without being licensed and recognized by the ~~board~~Council, unless the person is licensed in another profession and acting solely within the scope of that license. If the person is practicing professionally under another license, the person may not use the titles "licensed clinical social worker," "licensed master social worker," "licensed social worker," or "licensed

baccalaureate social worker," or any other title or initials that imply social work licensure unless one holds the appropriate license or independent practice recognition.

(h) An LBSW or LMSW who is not recognized for independent practice may not provide direct social work services to clients from a location that she or he owns or leases and that is not owned or leased by an employer or other legal entity with responsibility for the client. This does not preclude in-home services such as in-home health care or the use of electronic media to provide services in an emergency.

(i) An LBSW or LMSW who is not recognized for independent practice may practice for remuneration in a direct employment or agency setting but may not work independently, bill directly to patients or bill directly to third party payers, unless the LBSW or LMSW is under a formal ~~board~~Council-approved supervision plan.

§781.203303. General Standards of Practice. This section establishes standards of professional conduct required of a social worker. The licensee, following applicable statutes:

(1) shall not knowingly offer or provide professional services to an individual concurrently receiving professional services from another mental health

services provider except with that provider's knowledge. If a licensee learns of such concurrent professional services, the licensee shall take immediate and reasonable action to inform the other mental health services provider;

(2) shall terminate a professional relationship when it is reasonably clear that the client is not benefiting from the relationship. If continued professional services are indicated, the licensee shall take reasonable steps to facilitate transferring the client by providing the client with the name and contact information of three sources of service;

(3) shall not evaluate any individual's mental, emotional, or behavioral condition unless the licensee has personally interviewed the individual or the licensee discloses with the evaluation that the licensee has not personally interviewed the individual;

(4) shall not persistently or flagrantly over treat a client;

(5) shall not aid and abet the unlicensed practice of social work by a person required to be licensed under the Act;

(6) shall not participate in any way in falsifying licensure applications or any other documents submitted to the ~~board~~Council;

(7) shall ensure that, both before services commence and as

services progress, the client knows the licensee's qualifications and any intent to delegate service provision; any restrictions the ~~board~~Council has placed on the licensee's license; the limits on confidentiality and privacy; and applicable fees and payment arrangements;

(8) if the client must barter for services, it is the professional's responsibility to ensure that the client is in no way harmed. The value of the barter shall be agreed upon in advance and shall not exceed customary charges for the service or goods; and

(9) shall ensure that the client or a legally authorized person representing the client has signed a consent for services, when appropriate. Prior to commencement of social work services with a minor client who is named in a Suit Affecting Parent Child Relationship (SAPCR), the licensee shall ensure that all legally authorized persons representing the client have signed a consent for services, if applicable. A licensee shall maintain these documents in the client's record.

§781.~~204~~304. Relationships with Clients.

(a) A social worker shall inform in writing a prospective client about the nature of the professional relationship, which can include but is not limited to office procedures, after-hours coverage,

services provided, fees, and arrangements for payment.

(b) The social worker shall not give or receive a commission, rebate, or any other form of remuneration for referring clients. A licensee shall not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting clients or patronage for or from any health care professional. In accordance with the provisions of the Act, §505.451, a licensee is subject to disciplinary action if the licensee directly or indirectly offers to pay or agrees to accept remuneration to or from any person for securing or soliciting a client or patronage. Payment of credentialing or other fees to insurance companies or other third party payers to be part of an approved provider list shall not be considered as a violation of this chapter.

(c) A social worker shall not enter into a business relationship with a client. This rule does not prohibit a professional social work relationship with a client, as described in this subchapter.

(d) A social worker shall not engage in activities that seek to primarily meet the social worker's personal needs or personal gain instead of the needs of the client.

(e) A social worker shall be responsible for setting and maintaining professional boundaries.

(f) A social worker shall keep accurate records of services to include, but not be limited to, dates of services, types of services, progress or case notes and billing information for a minimum of ~~five~~ seven years after the date of termination of services for an adult client ~~and or~~ five years beyond the age of 18 years of age for a minor, whichever is greater, or in compliance with applicable laws or professional standards. If the foregoing provision conflicts with the standards, requirements, or procedures for records generated in the course and scope of rendering services as a social worker, either directly or indirectly, for an educational institution, or a federal, state, or local governmental entity or political subdivision, the foregoing provision does not apply.

(g) A social worker shall bill clients or third parties for only those services actually rendered or as agreed to by mutual written understanding.

(h) A licensee shall not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the effectiveness of the licensee's services; the licensee's qualifications, capabilities, background, training, experience, education, professional

affiliations, fees, products, or publications; the type, effectiveness, qualifications, and products or services offered by an organization or agency; or the practice or field of social work.

(i) If the licensee learns that false, misleading, deceptive, fraudulent or exaggerated statements about the services, qualifications, or products have been made, the licensee shall take all available steps to correct the inappropriate claims, prevent their reoccurrence, and report the incident to the ~~board~~Council.

(j) A licensee shall provide social work intervention only in the context of a professional relationship.

(k) Electronic practice may be used judiciously as part of the social work process and the supervision process. Social workers engaging in electronic practice, providing services to clients located in the State of Texas, must be licensed in Texas and adhere to provisions of this chapter.

(l) The licensee shall not provide social work services or intervention to previous or current family members; personal friends; educational or business associates; or individuals whose welfare might be jeopardized by a dual or multiple relationship.

(m) The licensee shall not accept from or give to a client any gift with a value in excess of \$25. If the licensee's employer prohibits

giving or receiving gifts, the licensee shall comply with the employer's policy.

(n) The licensee or relatives to the fourth degree of consanguinity or affinity of the licensee may not intentionally borrow or lend money or items of value to clients or relatives to the fourth degree of consanguinity or affinity of clients.

(o) The licensee shall take reasonable precautions to protect individuals from physical or emotional harm resulting from interaction within individual and group settings.

(p) A licensee shall not promote the licensee's personal or business activities that are unrelated to the current professional relationship.

(q) A licensee shall set and maintain professional boundaries, avoiding dual or multiple relationships with clients. If a dual or multiple relationship develops, the social worker is responsible for ensuring the client is safe.

(r) A licensee may not enter into a non-professional relationship with a client's family member or any person having a personal or professional relationship with the client, if the licensee knows or reasonably should have known such a relationship could be detrimental to the client.

§781.~~205~~305. Sexual Misconduct.

(a) Definitions.

(1) Sexual contact--Any touching or behavior that can be construed as sexual in nature or as defined by the Texas Penal Code, §21.01, relating to assault.

(2) Therapeutic deception--A licensee's act or statement representing that sexual contact or sexual exploitation between the licensee and a client or client group is a valid part of the treatment process.

(3) Sexual exploitation--A pattern, practice or scheme of exploitation, which may include, but is not limited to, sexual contact with a client.

(b) A licensee shall not engage in sexual contact or sexual exploitation with a client or former client; a supervisee of the licensee; or a student at an educational institution at which the licensee provides professional or educational services.

(c) A licensee shall not practice therapeutic deception of a client or former client.

(d) It is not a defense to a disciplinary action under subsections (a) - (c) of this section if the person was no longer emotionally dependent on the licensee when the sexual exploitation began, the sexual contact occurred, or the therapeutic deception occurred. It is also not a defense that the licensee terminated services with the person before the date the sexual exploitation began, the

sexual contact occurred or the therapeutic deception occurred.

(e) It is not a defense to a disciplinary action under subsections (a) - (c) of this section if the sexual contact, sexual exploitation, or therapeutic deception with the person occurred with the client's consent; outside appointments with the client; or off the premises the licensee used for appointments with the client.

(f) Examples of sexual contact are those activities and behaviors described in the Texas Penal Code, §21.01, relating to assault.

(g) A licensee shall report sexual misconduct in accordance with Texas Civil Practice and Remedies Code, Chapter 81, relating to sexual exploitation by a mental health services provider. If a licensee has reasonable cause to suspect that a client has been the victim of sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider, or if a client alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider, the licensee shall report the alleged conduct not later than the 30th day after the date the licensee became aware of the conduct or the allegations to:

(1) the prosecuting attorney in the county in which the alleged sexual exploitation, sexual

contact or therapeutic deception occurred; and

(2) the ~~board~~Council if the conduct involves a licensee and any other state licensing agency which licenses the mental health services provider.

(3) Before making a report under this subsection, the licensee shall inform the alleged victim of the licensee's duty to report and shall determine if the alleged victim wants to remain anonymous.

(4) A report under this subsection shall contain information necessary to identify the licensee; identify the alleged victim, unless the alleged victim has requested anonymity; express suspicion that sexual exploitation, sexual contact, or therapeutic deception occurred; and provide the alleged perpetrator's name.

(h) The following may constitute sexual exploitation if done for sexual arousal, sexual gratification, or sexual abuse of either the social worker or a person who is receiving or has received the licensee's professional services as a social worker:

(1) sexual harassment, sexual solicitation, physical advances, verbal or nonverbal conduct that is sexual in nature;

(2) any behavior, gestures, comments, or expressions which may reasonably be interpreted

as inappropriately seductive or sexual, including making sexual comments about a person's body or making sexually demeaning comments about an individual's sexual orientation, or making comments about potential sexual performance except when the comment is pertinent to issues of sexual function or dysfunction in counseling;

(3) initiating conversation about the licensee's sexual problems, preferences, or fantasies; or requesting details of sexual history or sexual likes and dislikes when those details are not necessary for counseling;

(4) kissing or fondling, or making any other deliberate or repeated comments, gestures, or physical acts of a sexual nature, even if they are not sexually intimate;

(5) making a request to date;

(6) exposing genitals, anus or breasts; or

(7) encouraging another person to masturbate in the licensee's presence; or the licensee masturbating in front of another person.

§781.~~206~~306. Professional Representation.

(a) A social worker shall not misrepresent any professional qualifications or associations.

(b) A social worker shall not misrepresent the attributes of any agency or organization, or make unreasonable, misleading,

deceptive, fraudulent, exaggerated, or unsubstantiated claims about the effectiveness of any services.

(c) A social worker shall not encourage, or within the social worker's power, allow a client to hold exaggerated ideas about the effectiveness of the social worker's services.

§781.207307. Testing.

(a) A social worker shall inform clients about the purposes and explicit uses of any testing done as part of a professional relationship.

(b) A social worker shall not appropriate, reproduce, or modify published tests or parts thereof without the publisher's permission.

(c) A social worker shall not administer any test without the appropriate training and experience to administer the test.

(d) A social worker must observe the necessary precautions to maintain the security of any test administered by the social worker or under the social worker's supervision.

§781.208308. Drug and Alcohol Use. A licensee shall not use alcohol or drugs in ways that compromise the licensee's ability to practice social work; ~~use illegal drugs of any kind; or promote, encourage, or concur in the illegal use, distribution, sale, or possession of alcohol or drugs.~~

§781.209309. Client Records and Record Keeping. Following applicable statutes, the licensee shall:

(1) keep accurate and legible records of the dates of services, types of services, progress or case notes, intake assessment, treatment plan, and billing information;

(2) retain and dispose of client records in ways that maintain confidentiality;

(3) in independent practice, establish a plan for the custody and control of the licensee's client records should the licensee die, become incapacitated, or cease offering professional services;

(4) keep client records for ~~five~~ seven years after the date of termination of services for adult clients ~~and or~~ five years beyond the age of 18 for minor clients, whichever is greater, unless the record keeping provision of §781.204(f) of this title (relating to Relationships with Clients) conflicts with the standards, requirements, or procedures for records generated in the course and scope of rendering services as a social worker, either directly or indirectly, for an educational institution, or a federal, state, or local governmental entity or political subdivision, the foregoing provision in §781.204(f) of this title does not apply;

(5) provide a written explanation of the types of treatment and charges on a bill or statement to

the client (this applies even if the charges are to be paid by a third party); and

(6) comply with the requirements of Texas Health and Safety Code, Chapters 161 and 611; Texas Family Code, Chapter 261; and other applicable state law concerning confidentiality of protected health information and the release of mental health records.

§781.~~210~~310. Billing and Financial Relationships.

(a) A licensee shall not intentionally or knowingly offer to pay or agree to accept any remuneration directly or indirectly, overtly or covertly, in cash or in kind, to or from any person, firm, association of persons, partnership, corporation, or entity for securing or soliciting clients or patronage for or from any health care professional. In accordance with the provisions of the Act, §505.451, a licensee is subject to disciplinary action if the licensee directly or indirectly offers to pay or agrees to accept remuneration to or from any person for securing or soliciting a client or patronage. Payment of credentialing or other fees to insurance companies or other third party payers to be part of an approved provider list shall not be considered as a violation of this chapter.

(b) A licensee employed or under contract with a chemical dependency facility or a mental

health facility, shall comply with the requirements in the Texas Health and Safety Code, §164.006, relating to soliciting and contracting with certain referral sources. Compliance with the Treatment Facilities Marketing Practices Act, Texas Health and Safety Code, Chapter 164, shall not be considered as a violation of state law relating to illegal remuneration.

(c) A licensee shall not knowingly or flagrantly overcharge a client, and shall bill clients and/or third parties for only those services that the licensee actually renders.

(d) Billing documents shall accurately reflect any collateral service the licensee uses to help serve the client.

(e) A licensee may not submit to a client and/or a third party payer a bill for services that the licensee knows were not provided, with the exception of a missed appointment, or knows were improper, unreasonable or unnecessary.

§781.~~211~~311. Client Confidentiality.

(a) Communication between a licensee and client, as well as the client's records, however created or stored, are confidential under the provisions of the Texas Health and Safety Code, Chapter 181, Texas Health and Safety Code, Chapter 611, and other state or federal statutes or rules, including rules of evidence, where such

statutes or rules apply to a licensee's practice.

(b) A licensee shall not disclose any communication, record, or client identity except as provided in the Texas Health and Safety Code, the Health Insurance Portability and Accountability Act (HIPAA), and/or other applicable state or federal statutes or rules.

(c) A licensee shall comply with Texas Health and Safety Code, Chapter 611, concerning access to mental health records.

(d) To release information for or about clients, a licensee shall have written permission signed by the client or the client guardian. That permission, which must be dated, shall include the client's name and identifying information; the purpose for releasing the information; the individual or entity to which the information is released; the length of time the release is authorized; the signature of the client or guardian representative; and date of signature.

(e) The social worker shall maintain the written release of information in the permanent client record and shall review and update it at least every twelve months.

(f) A licensee shall report information if required by any of the following statutes:

(1) Texas Family Code, Chapter 261, concerning abuse or neglect of minors;

(2) Texas Human Resources Code, Chapter 48, concerning abuse, neglect, or exploitation of elderly or disabled persons;

(3) Texas Health and Safety Code, §161.131 et seq., concerning abuse, neglect, and illegal, unprofessional, or unethical conduct in an in-patient mental health facility, a chemical dependency treatment facility or a hospital providing comprehensive medical rehabilitation services; and

(4) Texas Civil Practice and Remedies Code, §81.006, concerning sexual exploitation by a mental health services provider.

(g) A licensee may take reasonable action to inform only medical or law enforcement personnel if the professional determines that a client or others are at imminent risk of physical injury, or a client is in immediate risk of mental or emotional injury, in accordance with the Texas Health and Safety Code, Chapter 611, concerning mental health records.

§781.~~212~~312. Licensees and the ~~Board~~Council.

(a) Any person licensed as a social worker is bound by the provisions of the Act and this chapter.

(b) A social worker shall report alleged misrepresentations or violations of this chapter to the ~~board~~Council.

(c) The licensee shall report any and all ~~name changes, address changes, or~~ employment setting changes to the board~~Council~~ within 30 days.

~~(d) The board is not responsible for any lost or misdirected mail if sent to the address last reported by the licensee.~~

~~(e) The board may ask any applicant for licensure as a social worker, whose file contains negative references of good moral character, to come before the board for an interview before the licensure process may proceed.~~

~~(f) The board may consider a social worker's failure to respond to the board's request for information or other correspondence as unprofessional conduct and as indicative of lack of fitness for practice. It is grounds for disciplinary proceedings in accordance with this chapter.~~

§781.~~213~~313. Corporations and Business Names.

(a) An independent clinical practice or an independent non-clinical practice by a social worker may be incorporated in accordance with the Professional Corporation Act, or other applicable law.

(b) When a licensee uses an assumed name in any social work practice, the social worker's name must be listed in conjunction with the assumed name. An assumed name or credential that the social

worker uses shall not be false, deceptive, or misleading.

~~§781.214. Consumer Information.~~

~~(a) A licensee shall inform each client of the board's name, address, and telephone number for reporting violations of the Act or this chapter on one of the following: each registration form; each application; each written contract for services; a sign prominently displayed in each place of business; or a bill for services.~~

~~(b) The board shall make consumer information available to the public on the board's website or upon request.~~

~~§781.215. Display of License Certificate.~~

~~(a) A social worker shall display an original board-issued license certificate in a prominent place at each practice location.~~

~~(b) A social worker shall not alter a board-issued license certificate.~~

~~(c) A social worker shall not display a board-issued license certificate which has been reproduced or is expired, suspended, or revoked.~~

~~(d) A licensee who elects to copy a board-issued license certificate or certificate card takes full responsibility for the use or misuse of the reproduced license.~~

~~§781.216~~316. Advertising and Announcements.

(a) Social workers' advertisements and announcements shall not contain deceptive, inaccurate, incomplete, out-of-date, or out-of-context information about services or competence. Advertising includes, but is not limited to, any announcement of services, letterhead, business cards, commercial products, website entries, email, cell phone communications, social media communications, and billing statements.

(b) The ~~board~~Council imposes no restrictions on the advertising medium a social worker uses, including personal appearances, use of personal voice, size or duration of the advertisement or use of a trade name.

(c) All advertisements or announcements of a licensee's professional services, including website pages, social media communications, or telephone directory listings, shall clearly state the social worker's licensure designation and any specialty recognition, if any.

(d) A social worker shall not announce or advertise any information or reference to the social worker's certification in a field outside of social work that is deliberately intended to mislead the public.

(e) A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the

statements and representations made.

§781.~~217~~317. Research and Publications.

(a) In research with a human subject, a social worker is responsible for the subject's welfare throughout a project, shall obtain informed consent and take reasonable precautions so that the subject shall suffer no injurious emotional, physical or social effect.

(b) A social worker shall disguise data obtained from a professional relationship for the purposes of education or research to ensure full protection of the identity of the subject client.

(c) When conducting and reporting research, a social worker must recognize previous work on the topic, as well as observe all copyright laws.

(d) A social worker must give due credit through joint authorship, acknowledgment, footnote statements, Internet sources, or other appropriate means to those who have contributed significantly to the social worker's research or publication.

§781.~~218~~318. Providing Social Studies. Licensees shall comply with the Texas Family Code, Chapter 107, and other applicable laws when providing social studies.

§781.~~219~~319. Licensed Sex Offender Treatment. A social worker who is licensed as a sex offender treatment provider by the

Council on Sex Offender Treatment is not subject to disciplinary action by the ~~board~~Council in relation to the social worker's provision of sex offender treatment. A social worker who is a sex offender treatment provider and who acts in conformance with the rules, policies, and procedures of the ~~council~~Council on Sex Offender Treatment is not subject to any administrative sanction by the ~~board~~Council. If the Council on Sex Offender Treatment takes disciplinary action against a social worker who is a sex offender treatment provider, the ~~board~~Council may consider the final order imposing such disciplinary action as grounds for disciplinary action by the ~~board~~Council.

§781.~~220~~320. Parent Coordination.

(a) In accordance with the Family Code, §153.601(3), "parenting coordinator" means an impartial third party:

(1) who, regardless of the title by which the person is designated by the court, performs any function described in the Family Code, §153.606, in a suit; and

(2) who:

(A) is appointed under Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion, or on a motion or agreement of the parties, to assist parties in

resolving parenting issues through confidential procedures; and

(B) is not appointed under another statute or a rule of civil procedure.

(b) A licensee who serves as a parenting coordinator is not acting under the authority of a license issued by the ~~board~~Council, and is not engaged in the practice of social work. The services provided by the licensee who serves as a parenting coordinator are not within the jurisdiction of the ~~board~~Council, but rather the jurisdiction of the appointing court.

(c) A licensee who serves as a parenting coordinator has a duty to provide the information in subsection (b) of this section to the parties to the suit.

(d) Records of a licensee serving as a parenting coordinator are confidential under the Civil Practices and Remedies Code, §154.073. Licensees serving as a confidential parenting coordinator shall comply with the Civil Practices and Remedies Code, Chapter 154, relating to the release of information.

(e) A licensee shall not provide social work services to any person while simultaneously providing parenting coordination services. This section shall not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.

§781.~~224~~321. Parenting Facilitation.

(a) In accordance with House Bill 1012, 81st Legislature, Regular Session, 2009, and Family Code, Chapter 153, this section establishes the practice standards for licensees who desire to serve as parenting facilitators.

(b) In accordance with the Family Code, §153.601(3-a), a "parenting facilitator" means an impartial third party:

(1) who, regardless of the title by which the person is designated by the court, performs any function described by the Family Code, §153.6061, in a suit; and

(2) who:

(A) is appointed under Family Code, Chapter 153, Subchapter K (relating to Parenting Plan, Parenting Coordinator, and Parenting Facilitator) by the court on its own motion, or on a motion or agreement of the parties, to assist parties in resolving parenting issues through procedures that are not confidential; and

(B) is not appointed under another statute or a rule of civil procedure.

(c) Notwithstanding any other provision of this chapter, licensees who desire to serve as parenting facilitators shall comply with all applicable requirements of the Family Code, Chapter 153, and this section. Licensees shall

also comply with all requirements of this chapter unless a provision is clearly inconsistent with the Family Code, Chapter 153, or this section.

(d) In accordance with the Family Code, §153.6102(e), a licensee serving as a parenting facilitator shall not provide other social work services to any person while simultaneously providing parenting facilitation services. This section shall not apply if the court enters a finding that mental health services are not readily available in the location where the parties reside.

(e) A licensee serving as a parenting facilitator utilizes child-focused alternative dispute resolution processes, assists parents in implementing their parenting plan by facilitating the resolution of disputes in a timely manner, educates parents about children's needs, and engages in other activities as referenced in the Family Code, Chapter 153.

(f) A licensee serving as a parenting facilitator shall assist the parties involved in reducing harmful conflict and in promoting the best interests of the children.

(g) A licensee serving as a parenting facilitator functions in four primary areas in providing services.

(1) Conflict management function. The primary role of the parenting facilitator is to assist the parties to work out disagreements regarding the

children to minimize conflict. To assist the parents in reducing conflict, the parenting facilitator may monitor the electronic or written exchanges of parent communications and suggest productive forms of communication that limit conflict between the parents.

(2) Assessment function. A parenting facilitator shall review applicable court orders, including protective orders, social studies, and other relevant records to analyze the impasses and issues as brought forth by the parties.

(3) Educational function. A parenting facilitator shall educate the parties about child development, divorce, the impact of parental behavior on children, parenting skills, and communication and conflict resolution skills.

(4) Coordination/case management function. A parenting facilitator shall work with the professionals and systems involved with the family (for example, mental health, health care, social services, education, or legal) as well as with extended family, stepparents, and significant others as necessary.

(h) A licensee serving as a parenting facilitator shall be alert to the reasonable suspicion of acts of domestic violence directed at a parent, a current partner, or children. The parenting facilitator shall adhere to protection orders,

if any, and take reasonable measures to ensure the safety of the participants, the children and the parenting facilitator, while understanding that even with appropriate precautions a guarantee that no harm will occur can be neither stated nor implied.

(i) In order to protect the parties and children in domestic violence cases involving power, control and coercion, a parenting facilitator shall tailor the techniques used so as to avoid offering the opportunity for further coercion.

(j) A licensee serving as a parenting facilitator shall be alert to the reasonable suspicion of substance abuse by parents or children, as well as mental health impairment of a parent or child.

(k) A licensee serving as a parenting facilitator shall not provide legal advice.

(l) A licensee serving as a parenting facilitator shall serve by written agreement of the parties and/or formal order of the court.

(m) A licensee serving as a parenting facilitator shall not initiate providing services until the licensee has received and reviewed the fully executed and filed court order or the signed agreement of the parties.

(n) A licensee serving as a parenting facilitator shall maintain impartiality in the process of parenting facilitation. Impartiality means freedom from favoritism or

bias in word, action, or appearance, and includes a commitment to assist all parties, as opposed to any one individual.

(o) A licensee serving as a parenting facilitator:

(1) shall terminate or withdraw services if the licensee determines the licensee cannot act in an impartial or objective manner;

(2) shall not give or accept a gift, favor, loan or other item of value from any party having an interest in the parenting facilitation process;

(3) shall not coerce or improperly influence any party to make a decision;

(4) shall not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting facilitator process; and

(5) shall not accept any engagement, provide any service, or perform any act outside the role of parenting facilitation that would compromise the facilitator's integrity or impartiality in the parenting facilitation process.

(p) A licensee serving as a parenting facilitator may make referrals to other professionals to work with the family, but shall avoid actual or apparent conflicts of interest by referrals. No commissions, rebates, or similar remuneration shall be given or received by a licensee for

parenting facilitation or other professional referrals.

(q) A licensee serving as a parenting facilitator should attempt to bring about resolution of issues by agreement of the parties; however, the parenting facilitator is not acting in a formal mediation role. An effort towards resolving an issue, which may include therapeutic, mediation, education, and negotiation skills, does not disqualify a licensee from making recommendations regarding any issue that remains unresolved after efforts of facilitation.

(r) A licensee serving as a parenting facilitator shall communicate with all parties, attorneys, children, and the court in a manner which preserves the integrity of the parenting facilitation process and considers the safety of the parents and children.

(s) A licensee serving as a parenting facilitator:

(1) may meet individually or jointly with the parties, as deemed appropriate by the parenting facilitator, and may interview the children;

(2) may interview any individuals who provide services to the children to assess the children's needs and wishes; and

(3) may communicate with the parties through face-to-face meetings or electronic communication.

(t) A licensee serving as a parenting facilitator shall, prior to the beginning of the parenting facilitation process and in writing, inform the parties of:

(1) the limitations on confidentiality in the parenting facilitation process; and

(2) the basis of fees and costs and the method of payment, including any fees associated with postponement, cancellation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.

(u) Information obtained during the parenting facilitation process shall not be shared outside the parenting facilitation process except for professional purposes, as provided by court order, by written agreement of the parties, or as directed by the ~~board~~Council.

(v) In the initial session with each party, a licensee serving as a parenting facilitator shall review the nature of the parenting facilitator's role with the parents to ensure that they understand the parenting facilitation process.

(w) A licensee serving as a parenting facilitator:

(1) shall comply with all mandatory reporting requirements, including but not limited to Family Code, Chapter 261, concerning abuse or neglect of minors;

(2) shall report to law enforcement or other authorities if they have reason to believe that any participant appears to be at serious risk to harm themselves or a third party;

(3) shall maintain records necessary to support charges for services and expenses, and shall make a detailed accounting of those charges to the parties and their counsel, if requested to do so;

(4) shall maintain notes regarding all communications with the parties, the children, and other persons with whom they speak about the case; and

(5) shall maintain records in a manner that is professional, legible, comprehensive, and inclusive of information and documents that relate to the parenting facilitation process and that support any recommendations made by the licensee.

(x) Records of a licensee serving as a parenting facilitator are not mental health records and are not subject to the disclosure requirements of Health and Safety Code, Chapter 611. At a minimum, records shall be maintained for the period of time described in §781.209(4) of this title (relating to Client Records and Record Keeping), or as otherwise directed by the court.

(y) Records of a licensee serving as a parenting facilitator shall be released on the request of either

parent, as directed by the court, or as directed by the ~~board~~Council.

(z) Charges for parenting facilitation services shall be based upon the actual time expended by the parenting facilitator, or as directed by the written agreement of the parties, and/or formal order of the court.

(aa) All fees and costs shall be appropriately divided between the parties as directed by the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.

(bb) Fees may be disproportionately divided fees if one parent is disproportionately creating a need for services and if such a division is outlined in the court order of appointment and/or as noted in the parenting facilitators' written fee disclosure to the parties.

(cc) Services and activities for which a licensee serving as a parenting facilitator may charge include time spent interviewing parents, children and collateral sources of information; preparation of agreements, correspondence, and reports; review of records and correspondence; telephone and electronic communication; travel; court preparation; and appearances at hearings, depositions and meetings.

(dd) The minimum training for a licensee serving as a parenting

facilitator that is required by the Family Code, §153.6101(b), and is determined by the court is:

(1) eight hours of family violence dynamics training provided by a family violence service provider;

(2) 40 classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court;

(3) 24 classroom hours of training in the fields of family dynamics, child development, family law; and

(4) 16 hours of training in the laws and ~~board~~Council rules governing parenting coordination and facilitation, and the multiple styles and procedures used in different models of service.

(ee) A licensee serving as a parenting facilitator:

(1) shall complete minimum training as required by the Family Code, §153.6101, as determined by the appointing court;

(2) shall have extensive practical experience with high conflict or litigating parents;

(3) shall complete and document upon request advanced training in family dynamics, child maltreatment, co-parenting, and high conflict separation and divorce; and

(4) shall regularly complete continuing education related to co-parenting issues, high-conflict families and the parenting coordination and facilitation process.

(ff) A licensee serving as a parenting facilitator shall decline an appointment, withdraw, or request appropriate assistance when the facts and circumstances of the case are beyond the licensee's skill or expertise.

(gg) Since parenting facilitation services are addressed under multiple titles in different jurisdictions nationally, acceptability of training to meet the requirements of subsection (ddd) of this section is based on functional skills taught during the training rather than the use of specific titles or names.

§781.222322. Child Custody Evaluations.

(a) Licensees shall comply with Texas Family Code, Chapter 107, Subchapters D, E, and F, concerning Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions.

(b) A licensee who has completed a doctoral degree and at least 10 court-ordered child custody evaluations under the supervision of an individual qualified by the Texas Family Code, Chapter 107 to perform child custody evaluations is qualified to conduct child custody evaluations under Texas Family Code, Chapter 107.

All other licensees must comply with the qualification requirements stipulated in Texas Family Code, Chapter 107.

(c) Any complaint relating to the outcome of a child custody evaluation or adoption evaluation conducted by a licensee must be re-reported to the court that ordered the evaluation. ~~The board only reviews complaints regarding forensic evaluations addressing violation of specific board rules.~~

(d) Disclosure of confidential information in violation of Texas Family Code, §107.111 or §107.163 is grounds for disciplinary action, up to and including revocation of license, by the ~~board~~Council.

(e) A licensee who provides services concerning a matter which the licensee knows or should know will be utilized in a legal proceeding, such as a divorce, child custody determination, disability claim, or criminal prosecution, must comply with all applicable ~~board~~Council rules in this chapter regardless of whether the licensee is acting as a factual witness or an expert.

(f) A licensee may not provide therapy and any other type of service, including but not limited to a child custody evaluation or parenting facilitation, in the same case, whether such services are delivered sequentially or simultaneously.

(g) Licensees may not offer an expert opinion or

recommendation relating to the conservatorship of or possession of or access to a child unless the licensee has conducted a child custody evaluation relating to the child under Texas Family Code, Chapter 107, Subchapter D.

(h) Licensees providing child custody evaluations or adoption evaluations shall, prior to beginning the evaluation, in writing inform the parties of:

(1) the limitations on confidentiality in the evaluation process; and

(2) the basis of fees and costs and the method of payment, including any fees associated with postponement, cancelation and/or nonappearance, and the parties' pro rata share of the fees and costs as determined by the court order or written agreement of the parties.

(i) A Licensed Baccalaureate Social Worker shall not conduct child custody evaluations or adoption evaluations unless qualified to provide such services by another professional license or otherwise by Texas Family Code, Chapter 107.

§781.223323. Technology in Social Work Practice.

When social workers use technology to provide services, they are subject to all rules and statutes, including this chapter and Occupations Code, Chapter

505, as if providing face to face services.

~~SUBCHAPTER C. THE BOARD.~~

~~§781.301. Board Rules.~~

~~(a) This subsection outlines the board's procedures for submitting, considering, and disposing of a petition to the board to adopt or change a rule.~~

~~(1) Any person may petition the board to adopt or change a rule. The petition, which must be in writing and shall be filed with the board office, shall state the petitioner's name, address, and phone number, and shall include a brief justification and explanation of the proposed rule; the proposed text of the rule, indicating the words to be added or deleted from the current text; the statutory or other authority under which the rule is to be promulgated; and the public benefit that adopting the proposed rule would create, or the anticipated injury or inequality which would result if the proposed rule is not adopted.~~

~~(2) The board office may determine the petition does not contain existing information described in this subsection and shall return the petition to the petitioner.~~

~~(3) Except as otherwise provided in this subsection, the executive director shall submit a completed petition to the board for consideration.~~

~~(4)~~ At the first full board meeting after receiving the petition, the board shall either deny the petition or institute rulemaking procedures in accordance with the APA, the Government Code, Chapter 2001. If the board denies the petition, the board will explain to the petitioner, in writing, why the board denied. If the board initiates rulemaking procedures, the board may alter the wording of the rule from the petitioner's version.

~~(b)~~ The board will consider and act on all petitions for rule adoption or changes in accordance with this section. If the board considered and acted on a proposed rule change within the previous six months, the board may decline to consider a subsequent petition for the same rule adoption.

§781.302202. Board Meetings.

(a) The board shall hold at least one meeting each year and additional meetings as necessary.

(b) The chairperson may call a meeting after consultation with board members or by a majority of members so voting at a meeting.

(c) Meetings shall be announced and conducted under the provisions of the Texas Open Meetings Act, Government Code, Chapter 551.

~~(d)~~ The chairperson may invite comments or statements from

non-board members on all agenda items, but may limit the time allotted to each individual. The board may not act on comments or statements related to issues not on the agenda.

~~(e)~~ Interpreters and other reasonable accommodations necessary to facilitate public participation will be made available as requested. The executive director must receive notice that reasonable accommodations will be needed at least 10 days in advance of the board or committee meeting.

§781.303203. Board Training. A person who is appointed to and qualifies for office as a member of the board may not vote, deliberate, or be counted as a member in attendance at a meeting of the board until the person completes a training program that meets the requirements established in the Act.

§781.304204. Transaction of Official Board Business.

~~(a)~~ The board may transact official business only when in a legally constituted meeting with a quorum present. A quorum of the board necessary to conduct official business is five members.

~~(b)~~ The board shall not be bound by any board member's or staff member's statement or action except when such statement or action results from the board's specific instructions. Board member or staff member opinions, except when a

~~statement or action is in pursuance of specific instructions of the board, about ethical dilemmas or practice issues should never be substituted for appropriate professional consultation.~~

~~(e) Robert's Rules of Order Revised shall be the basis of parliamentary decisions except as otherwise provided in this chapter.~~

§781.305205. Board Agendas.

(a) The executive director or designee is responsible for preparing and submitting an agenda to board members prior to each meeting; the agenda is subject to the chair's approval. The agenda shall include items requested by board members, items required by law, items previously tabled, and other matters of board business.

~~(b) Any individual, including a board member, may request an agenda item by submitting the written request and supporting documentation at least 30 days before the scheduled meeting. The board or committee chair and legal counsel must approve any item before it is placed on the agenda.~~

~~(e) The official board meeting agenda shall be filed with the Texas Secretary of State as required by law.~~

§781.306206. Board Minutes.

(a) The minutes of a board meeting are official only when

affixed with the original signature of the chairperson.

(b) Drafts of the meeting minutes shall be forwarded to each board member for review and comments or corrections prior to the board's approval.

(c) The official board meeting minutes shall be posted on the publicly-accessible board website.

§781.307207. Elections.

(a) At the first meeting following the last day of January of each year, the board shall elect a vice-chair.

(b) A vacancy which occurs in the office of vice-chair may be filled at any meeting.

§781.308208. Officers of the Board.

(a) The chair, who is appointed by the governor, shall preside at all meetings which he or she attends. The chair performs all duties prescribed by law or this chapter and is authorized to make day-to-day decisions regarding board activities to make the board more effective and responsive.

(b) The vice-chair shall perform the duties of the chair in case the chair is absent or disabled. If the office of chair becomes vacant, the vice-chair shall serve until a successor is appointed.

§781.309209. Committees of the Board.

(a) The board and/or the board chair may establish board

committees, advisory committees and task forces.

(b) The board chair shall appoint members of the board to serve on board committees and shall appoint the board committee chairs. ~~The board chair shall assign board members and/or the executive director to serve on advisory committees and task forces.~~ The board chair may invite others to serve on advisory committees and task forces.

(c) Only members of the board may be appointed to board committees.

(d) Committee chairs shall make regular reports to the board ~~in interim written reports or~~ at regular meetings.

(e) Committees shall meet when called by the committee chair or when so directed by the board or the board chair.

(f) Each committee shall consist of least one public member and one professional member, unless the board authorizes otherwise. ~~At least one public member of the board shall be appointed to any board committee established to review a complaint filed with the board or review an enforcement action against a license holder related to a complaint filed with the board.~~

~~§781.310. Executive Director.~~

~~**(a)** The executive director, who serves at the will of the board, is a commission employee who administers board activities, such~~

~~as keeping board meeting minutes and proceedings and serving as custodian of the board files and records.~~

~~**(b)** The executive director shall exercise general supervision over persons employed in the administration of the Act. The executive director may delegate responsibilities to other staff members when appropriate.~~

~~**(c)** The executive director shall be responsible for the investigation and presentation of complaints.~~

~~**(d)** The executive director manages board correspondence and obtains, prepares, and assembles reports and information as directed by the board, or as authorized by the commission or other agency with appropriate statutory authority.~~

~~**(e)** The executive director is responsible for assembling and evaluating materials that applicants submit for licensure and renewal. The executive director's determinations are subject to the approval of the appropriate board committee or the full board.~~

~~§781.311. Official Records of the Board.~~

~~**(a)** Public records may be reviewed by inspection or duplication, or both, in accordance with the Texas Public Information Act, Government Code, Chapter 552. Confidential records are not available.~~

~~(b)~~ The requester shall pay the customary commission charge for duplicating costs before or at the time the duplicated records are transferred to the requester.

~~(c)~~ The procedural rules contained in the Texas Public Information Act for inspecting and duplicating public records apply to requests the board receives.

~~§781.312. Impartiality and Non-discrimination.~~

~~(a)~~ The board shall make all decisions in the discharge of its statutory authority without regard to any person's age; gender; race; color; religion; national origin; disability; sexual orientation; gender identity and expression; or political affiliation.

~~(b)~~ Any board member who cannot be impartial in determining an applicant's eligibility for licensure or in a disciplinary action against a licensee shall so declare this to the board and shall not participate in any board proceedings involving that applicant or licensee.

~~§781.313. Applicants with Disabilities.~~

~~(a)~~ The board shall comply with applicable provisions of the Americans with Disabilities Act.

~~(b)~~ Applicants with disabilities shall inform the board in advance of any reasonable accommodations needed.

~~§781.314. The License.~~

~~(a)~~ The board shall prepare and provide to each licensee a license certificate, which contains the licensee's name, license granted and license number. The license certificate will include any specialty recognition or supervisory status granted by the board to the licensee. The board shall have a method to indicate the expiration date of a new license and a license which has been renewed.

~~(b)~~ The license shall display the chairperson's signature and the seal of the State of Texas.

~~(c)~~ Temporary license certificates shall include an expiration date. A temporary license expires on the expiration date, the date that the first licensing examination is failed, or, if the first licensing examination is passed, the date that the board issues a regular license certificate, whichever is first.

~~(d)~~ Provisional license certificates shall include an expiration date. A provisional license expires on the expiration date or the date that the board issues a regular license certificate, whichever is first.

~~(e)~~ All licenses issued by the board remain the property of the board and must be surrendered to the board on demand. The board maintains jurisdiction over a licensee until the license is returned to the board.

~~§781.315. Roster of Licensees.~~

~~The board, on its website, will make available to the general~~

public a roster of licensees at its discretion.

~~§781.316. Fees.~~

~~(a)~~ The following are the board's fees:

~~(1)~~ application fee for all licenses, approved supervisory status, or specialty recognition--\$20;

~~(2)~~ license fee for LBSW, or LMSW--\$60;

~~(3)~~ renewal fee for LBSW, or LMSW--\$80 biennially;

~~(4)~~ license fee for LCSW--\$100;

~~(5)~~ renewal fee for LCSW--\$100 biennially;

~~(6)~~ additional license fee for Independent Practice specialty recognition--\$20 biennially;

~~(7)~~ additional or replacement license fee--\$10;

~~(8)~~ fee for late renewal:

~~(A)~~ 1--90 days--renewal fee plus fee equal to one-fourth of the renewal fee for an unexpired license (LMSW or LBSW fee--\$20; LCSW, LBSW-IPR, LMSW-IPR, or LMSW-AP fee--\$25); or

~~(B)~~ 91 days, but less than one year--renewal fee plus fee equal to one-half of the renewal fee for an unexpired license (LMSW or LBSW fee--\$40; LCSW, LBSW-IPR, LMSW-IPR, or LMSW-AP fee--\$50);

~~(9)~~ conversion fee covering active to inactive status, or inactive to active status--\$30;

~~(10)~~ inactive status renewal fee--\$30 biennially;

~~(11)~~ returned check fee--\$25;

~~(12)~~ written license verification fee--\$10 per verification copy;

~~(13)~~ specialty license verification fee--\$10 per verification copy;

~~(14)~~ continuing education provider application fee--\$50 annually;

~~(15)~~ delinquent child support administrative fee--\$35;

~~(16)~~ legislatively mandated fees for the Office of Patient Protection;

~~(17)~~ legislatively mandated fees related to administering www.texas.gov;

~~(18)~~ board approved supervisor fee--\$50 biennially;

~~(19)~~ AMEC participant administrative fee--Fee equal to the current contract examination fee;

~~(20)~~ Temporary license fee--\$30; and

~~(21)~~ Criminal history evaluation letter fee--\$50.

~~(b)~~ Fees paid to the board by applicants are not refundable except in accordance with §781.405 of this title (relating to Application for Licensure).

~~(c)~~ A license which is issued by the board, but for which a check is returned (for example, insufficient funds, account closed, or payment stopped) is invalid. A

license will be considered expired and the licensee in violation of board rules until the board receives and processes the renewal fee and returned check fee.

~~§781.317. Criminal History Evaluation Letter.~~

~~(a)~~ In accordance with Texas Occupations Code, §53.102, a person may request the commission to issue a criminal history evaluation letter regarding the person's eligibility for a license if the person:

- ~~—(1)~~ is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and
- ~~—(2)~~ has reason to believe that the person is ineligible for the license due to a conviction or deferred adjudication for a felony or misdemeanor offense.

~~(b)~~ A person making a request for issuance of a criminal history evaluation letter shall submit the request on a form prescribed by the commission, accompanied by the criminal history evaluation letter fee and the required supporting documentation, as described on the form. The request shall state the basis for the person's potential ineligibility.

~~(c)~~ The commission has the same authority to investigate a request submitted under this subsection and the requestor's eligibility that

the commission has to investigate a person applying for a license.

~~(d)~~ If the commission determines that a ground for ineligibility does not exist, the commission shall notify the requestor in writing of the determination. The notice shall be issued not later than the 90th day after the date the commission received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form.

~~(e)~~ If the commission determines that the requestor is ineligible for a license, the commission shall issue a letter setting out each basis for potential ineligibility and the commission's determination as to eligibility. The letter shall be issued not later than the 90th day after the date the commission received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form. In the absence of new evidence known to, but not disclosed by, the requestor or not reasonably available to the commission at the time the letter is issued, the commission's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.

SUBCHAPTER ~~DC~~. ~~LICENSES-Application~~ AND ~~LICENSING-PROCESS~~.

§781.401. Qualifications for Licensure.

(a) Licensure. The following education and experience is required for licensure as designated. If an applicant for a license has held a substantially equivalent license in good standing in another jurisdiction for one year immediately preceding the date of application, the applicant will be deemed to have met the experience requirement under this chapter.

(1) Licensed Clinical Social Worker (LCSW).

(A) Has been conferred a master's degree in social work from a CSWE-accredited social work program, or a doctoral degree in social work from an accredited institution of higher learning acceptable to the boardCouncil, and has documentation in the form of a university transcript of successfully completing a field placement in social work.

(B) Has had 3000 hours of boardCouncil-approved supervised professional clinical experience over a period of 24 to 48 months, or its equivalent if the experience was completed in another jurisdiction. BoardCouncil-approved supervised professional experience must comply with §781.404 of this title (relating to Recognition as a BoardCouncil-approved Supervisor and the Supervision Process) and all other applicable laws and rules.

(C) Has had a minimum of 100 hours of boardCouncil-approved supervision, over the course of the 3000 hours of experience, with a

boardCouncil-approved supervisor. Supervised experience must have occurred within the five calendar years immediately preceding the date of LCSW application. If the social worker completed supervision in another jurisdiction, the social worker shall have the supervision verified by the regulatory authority in the other jurisdiction. If such verification is impossible, the social worker may request that the boardCouncil accept alternate verification of supervision.

(D) Has passed the Clinical examination administered nationally by ASWB.

(2) Licensed Master Social Worker (LMSW).

(A) Has been conferred a master's degree in social work from a CSWE-accredited social work program, or a doctoral degree in social work from an accredited university acceptable to the boardCouncil, and has documentation in the form of a university transcript of successfully completing a field placement in social work.

(B) Has passed the Master's examination administered nationally by ASWB.

(3) Licensed Baccalaureate Social Worker (LBSW).

(A) Has been conferred a baccalaureate degree in social work from a CSWE accredited social work program.

(B) Has passed the Bachelors examination administered nationally by ASWB.

(b) Specialty Recognition. The following education and experience is required for specialty recognitions.

(1) Licensed Master Social Worker-Advanced Practitioner (LMSW-AP).

(A) Is currently licensed in the State of Texas or meets the current requirements for licensure as an LMSW.

(B) While fully licensed as a social worker, has had 3000 hours of ~~board~~Council-approved supervised professional non-clinical social work experience over a period of 24 to 48 months, or its equivalent if the experience was completed in another jurisdiction. ~~Board~~Council-approved supervised professional experience must comply with §781.404 of this title and all other applicable laws and rules.

(C) Has had a minimum of 100 hours of ~~board~~Council-approved supervision, over the course of the 3000 hours of experience, with a ~~board~~Council-approved supervisor. Supervised experience must have occurred within the five calendar years immediately preceding the date of LMSW-AP application. If supervision was completed in another jurisdiction, the social worker must have the supervision verified by the regulatory authority in the other jurisdiction. If such verification is impossible, the social

worker may request that the ~~board~~Council accept alternate verification of supervision.

(D) Has passed the Advanced Generalist examination administered nationally by the ASWB.

(2) Independent Non-clinical Practice.

(A) Is currently licensed in the State of Texas as an LBSW or LMSW.

(B) While fully licensed as a social worker has had 3000 hours of ~~board~~Council-approved supervised full-time social work experience over a minimum two-year period, but within a maximum five-year period or its equivalent if the experience was completed in another state. ~~Board~~Council-approved supervised professional experience must comply with §781.404 of this title and all other applicable laws and rules.

(C) Has had a minimum of 100 hours of ~~board~~Council-approved supervision, over the course of the 3000 hours of experience, with a ~~board~~Council-approved supervisor. Supervised experience must have occurred within the 5 calendar years immediately preceding the date of application for IPR specialty recognition. If supervision was completed in another jurisdiction, the social worker shall have the supervision verified by the regulatory authority in the other jurisdiction. If such verification is impossible, the social worker may

request that the ~~board~~Council accept alternate verification.

(c) Applicants for a license must complete the ~~board~~Council's jurisprudence examination and submit proof of completion at the time of application. ~~The jurisprudence examination must have been completed no more than six months prior to the date of application.~~

§781.402. Clinical Supervision for LCSW and Non-Clinical Supervision for Independent Practice Recognition.

(a) A person who has obtained a temporary license may not begin the supervision process toward independent non-clinical practice or independent clinical practice until the regular license is issued.

(b) An LMSW who plans to apply for the LCSW must:

(1) within 30 days of initiating supervision, submit to the ~~board~~Council one clinical supervisory plan for each location of practice for approval by the ~~board~~Council or ~~executive director/its~~ designee;

(2) submit a current job description from the agency in which the social worker is employed with a verification of authenticity from the agency director or his or her designee on agency letterhead. In order for a plan to be approved, the position description or other relevant documentation must demonstrate that the duties of

the position are clinical as defined in this chapter;

(3) submit a separate supervision verification form for each location of practice to the ~~board~~Council for approval within 30 days of the end of each supervisory plan with each supervisor. If the supervisor does not recommend that the supervisee is eligible to examine for LCSW, the supervisor must indicate such on the clinical supervision verification form and provide specific reasons for not recommending the supervisee. The ~~board~~Council may consider the supervisor's reservations as it evaluates the supervision verification submitted by the supervisee;

(4) submit a new supervisory plan within 30 days of changing supervisors or practice location; and

(5) submit an application for re-categorizing his/her licensure to Licensed Clinical Social Worker.

(c) An LMSW who plans to apply for the LCSW may not open an independent social work practice to provide clinical social work to clients.

(d) An LBSW or an LMSW who plans to apply for the Independent Practice Recognition must:

(1) submit one supervisory plan to the ~~board~~Council for each location of practice for approval by the ~~board~~Council or

~~executive director/its~~ designee within 30 days of initiating supervision;

(2) submit a current job description from the agency in which the social worker is employed with a verification of authenticity from the agency director or his or her designee on agency letterhead or submit a copy of the contract or appointment under which the LBSW or LMSW intends to work, along with a statement from the potential supervisor that the supervisor has reviewed the contract and is qualified to supervise the LBSW or LMSW in the setting;

(3) submit a separate supervision verification form for each practice location to the ~~board~~Council within 30 days of the end of each supervisory plan with each supervisor. If the supervisor does not recommend that the supervisee is eligible for independent practice recognition, the supervisor must provide specific reasons for not recommending the supervisee. The ~~board~~Council may consider the supervisor's reservations as it evaluates the supervision verification that the supervisee submits; and

(4) submit a new supervisory plan within 30 days of changing supervisors or practice location.

(e) A licensee who is required to be supervised as a condition of initial licensure, continued

licensure, or disciplinary action must:

(1) submit one supervisory plan for each practice location to the ~~board~~Council for approval by the ~~board~~Council or ~~executive director/its~~ designee within 30 days of initiating supervision;

(2) submit a current job description from the agency in which the social worker is employed with a verification of authenticity from the agency director or his or her designee on agency letterhead or submit a copy of the contract or appointment under which the licensee intends to work, along with a statement from the potential supervisor that the supervisor has reviewed the contract and is qualified to supervise the licensee in the setting;

(3) ensure that the supervisor submits reports to the ~~board~~Council on a schedule determined by the ~~board~~Council. In each report, the supervisor must address the supervisee's performance, how closely the supervisee adheres to statutes and rules, any special circumstances that led to the imposition of supervision, and recommend whether the supervisee should continue licensure. If the supervisor does not recommend the supervisee for continued licensure, the supervisor must provide specific reasons for not recommending the supervisee. The ~~board~~Council

may consider the supervisor's reservations as it evaluates the supervision verification the supervisee submits; and

(4) notify the boardCouncil immediately if there is a disruption in the supervisory relationship or change in practice location and submit a new supervisory plan within 30 days of the break or change in practice location.

~~(f) An LBSW or an LMSW who has been approved for a probationary license under supervision while participating in the AMEC program must follow the application and supervision requirements in §781.413 of this title (relating to Alternate Method of Examining Competency (AMEC) Program).~~

§781.403. Independent Practice Recognition (Non-Clinical).

(a) An LBSW or LMSW who seeks to obtain boardCouncil approval for the specialty recognition of independent non-clinical practice shall meet requirements and parameters set by the boardCouncil in §781.401 of this title (relating to Qualifications for Licensure).

(b) An individual supervising an LBSW for independent non-clinical practice recognition shall be an LBSW recognized for independent non-clinical practice; an LMSW recognized for independent non-clinical practice; an LMSW-AP; or an LCSW. The supervisor shall be boardCouncil-approved.

(c) An individual supervising an LMSW for the independent non-clinical practice recognition shall be boardCouncil-approved and shall be an LMSW recognized for independent non-clinical practice, an LMSW-AP, or an LCSW.

(d) A person who has obtained only the temporary license may not begin supervision until the boardCouncil issues a regular license.

(e) The boardCouncil may use the Internal Revenue Service (IRS) guidelines developed in 1996 to demonstrate whether a professional is an independent contractor or an employee. These guidelines revolve around the control an employer has in an employer-employee relationship, in which the employer has the right to control the "means and details" by which services are performed.

(1) Behavioral control. The employer can control the employee's behavior by giving instructions about how the work gets done rather than simply looking at the end products of work. The more detailed the instructions, the more control the employer exercises. An employer requiring that employees be trained for the job is also an example of behavioral control, though contractors may also go through training.

(2) Financial control. The employer determines the amount and regularity of

payments to employees. A contractor is typically paid when he/she completes the work, and the contractor usually sets a timeframe for completing the work. The most important element of financial control is that a contractor has more freedom to make business decisions that affect the profitability of his/her work. A contractor, for instance, may invest in renting an office or buying equipment, while the employee does not. While employees are usually reimbursed for job-related expenses, the contractor may or may not be reimbursed, but lack of reimbursement usually signals that a worker is independent. An independent contractor often makes his or her services available to other potential clients, while an employee does not.

(3) Relationship of the parties. The intent of the relationship is significant. The relationship is usually outlined in the written contract and gives one party more control than the other. If a company gives a worker employee benefits, the worker is an employee. The ability to terminate the relationship is another evidence of control in the relationship. If the employer-employee relationship appears to be permanent, it denotes an employee, not contractor, relationship. If a worker performs activities that are a key aspect of the company's regular

business, that denotes an employee status.

(f) An LBSW or LMSW who plans to apply for the specialty recognition of non-clinical independent practice shall follow procedures set out in §781.402 of this title (relating to Clinical Supervision for LCSW and Non-Clinical Supervision for LMSW-AP and Independent Practice Recognition).

(g) An LBSW or LMSW may practice independently when the LMSW or LBSW holds the independent practice specialty recognition, or when under a supervision plan for independent practice that has been approved by the [Board Council](#).

§781.404. Recognition as a [Board Council](#)-approved Supervisor and the Supervision Process.

(a) Types of supervision include:

(1) administrative or work-related supervision of an employee, contractor or volunteer that is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure;

(2) clinical supervision of a Licensed Master Social Worker in a setting in which the LMSW is providing clinical services; the supervision may be provided by a Licensed Professional Counselor, Licensed Psychologist, Licensed Marriage

and Family Therapist, Licensed Clinical Social Worker or Psychiatrist. This supervision is not related to qualification for licensure, practice specialty recognition, a disciplinary order, or a condition of new or continued licensure;

(3) clinical supervision of a Licensed Master Social Worker, who is providing clinical services and is under a ~~board~~Council-approved supervision plan to fulfill supervision requirements for achieving the LCSW; a Licensed Clinical Social Worker who is a ~~board~~Council-approved supervisor delivers this supervision;

(4) non-clinical supervision of a Licensed Master Social Worker or Licensed Baccalaureate Social Worker who is providing non-clinical social work service toward qualifications for independent non-clinical practice recognition; this supervision is delivered by a ~~board~~Council-approved supervisor;

(5) non-clinical supervision of a Licensed Master Social Worker who is providing non-clinical social work service toward qualifications for the LMSW-AP; this supervision is delivered by a ~~board~~Council-approved supervisor;

~~_(6) supervision of a probationary Licensed Master Social Worker or Licensed Baccalaureate Social Worker providing non-clinical services by~~

~~a board-approved supervisor toward licensure under the AMEC program; or~~

(7) ~~board~~Council-ordered supervision of a licensee by a ~~board~~Council-approved supervisor pursuant to a disciplinary order or as a condition of new or continued licensure.

(b) A person who wishes to be a ~~board~~Council-approved supervisor must file an application and pay the applicable fee.

(1) A ~~board~~Council-approved supervisor must be actively licensed in good standing by the ~~board~~Council as an LBSW, an LMSW, an LCSW, or be recognized as an Advanced Practitioner (LMSW-AP), or hold the equivalent social work license in another jurisdiction. ~~An individual whose licensure status is emeritus may not serve as a board-approved supervisor.~~ The person applying for ~~board~~Council-approved status must have practiced at his/her category of licensure for two years. The ~~board~~Council-approved supervisor shall supervise only those supervisees who provide services that fall within the supervisor's own competency.

(2) The ~~board~~Council-approved supervisor is responsible for the social work services provided within the supervisory plan.

(3) The ~~board~~Council-approved supervisor must have completed

a supervisor's training program acceptable to the boardCouncil.

(4) The boardCouncil-approved supervisor must complete three hours of continuing education every biennium in supervision theory, skills, strategies, and/or evaluation.

(5) The boardCouncil-approved supervisor must designate at each license renewal that he/she wishes to continue boardCouncil-approved supervisor status.

(6) The boardCouncil-approved supervisor must submit required documentation and fees to the boardCouncil as listed in §781.316 of this title (relating to Fees).

(7) When a licensee is designated a boardCouncil-approved supervisor, he or she may perform the following supervisory functions.

(A) An LCSW may supervise clinical experience toward the LCSW license, non-clinical experience toward the Advanced Practitioner specialty recognition, non-clinical experience toward the Independent Practice Recognition (non-clinical), ~~a licensee under probationary initial or continued licensure, and~~ boardCouncil-ordered probated suspension, ~~and probationary license holders under the AMEC program.~~

(B) An LMSW-AP may supervise non-clinical

experience toward the Advanced Practitioner specialty recognition; non-clinical experience toward the non-clinical Independent Practice Recognition; ~~a licensee under probationary initial or continued licensure; and~~ boardCouncil-ordered probated suspension for non-clinical practitioners; ~~and probationary license holders under the AMEC program.~~

(C) An LMSW with the Independent Practice Recognition (non-clinical) who is a boardCouncil-approved supervisor may supervise an LBSW's or LMSW's non-clinical experience toward the non-clinical Independent Practice Recognition; ~~an LBSW or LMSW under probationary initial or continued licensure; and~~ an LBSW or LMSW (non-clinical) under boardCouncil-ordered probated suspension; ~~and a probationary license holder under the AMEC program; however, an LMSW who does not hold the independent practice recognition may only supervise probationary license holders under the AMEC program in an employment setting.~~

(D) An LBSW with the non-clinical Independent Practice Recognition who is a boardCouncil-approved supervisor may supervise: an LBSW's non-clinical experience toward the non-clinical

Independent Practice Recognition; ~~an LBSW under probationary initial or continued licensure; and an LBSW under boardCouncil-ordered probated suspension; and a probationary LBSW license holder under the AMEC program; however, an LBSW who does not hold the independent practice recognition may only supervise probationary license holders under the AMEC program in an employment setting.~~

~~(8) On receiving the licensee's application to be a board-approved supervisor, as well as fee and verification of qualifications, the board will issue a letter notifying the licensee that the licensee is a board-approved supervisor.~~

(9) The approved supervisor must renew the approved supervisor status in conjunction with the biennial license renewal. The approved supervisor may surrender supervisory status by documenting the choice on the appropriate boardCouncil renewal form and subtracting the supervisory renewal fee from the renewal payment. If a licensee who has surrendered supervisory status desires to regain supervisory status, the licensee must reapply and meet the current requirements for approved supervisor status.

(10) A supervisor must maintain the qualifications described in this section while he or she is providing supervision.

(11) A boardCouncil-approved supervisor who wishes to provide any form of boardCouncil-approved or boardCouncil-ordered supervision must comply with the following.

(A) The supervisor is obligated to keep legible, accurate, complete, signed supervision notes and must be able to produce such documentation for the boardCouncil if requested. The notes shall document the content, duration, and date of each supervision session.

(B) A social worker may contract for supervision with written approval of the employing agency. A copy of the approval must accompany the supervisory plan submitted to the boardCouncil.

(C) A boardCouncil-approved supervisor may not charge or collect a fee or anything of value from his or her employee or contract employee for the supervision services provided to the employee or contract employee.

(D) Before entering into a supervisory agreement, the supervisor shall be aware of all conditions of exchange with the clients served by her or his supervisee. The supervisor shall not provide supervision if the supervisee is practicing outside the authorized scope of the license. If the supervisor believes that a social worker is

practicing outside the scope of the license, the supervisor shall make a report to the ~~board~~Council.

(E) A supervisor shall not be employed by or under the employment supervision of the person who he or she is supervising.

(F) A supervisor shall not be a family member of the person being supervised.

(G) A supervisee must have a clearly defined job description and responsibilities.

(H) A supervisee who provides client services for payment or reimbursement shall submit billing to the client or third-party payers which clearly indicates the services provided and who provided the services, and specifying the supervisee's licensure category and the fact that the licensee is under supervision.

(I) If either the supervisor or supervisee has an expired license or a license that is revoked or suspended during supervision, supervision hours accumulated during that time will be accepted only if the licensee appeals to and receives approval from the ~~board~~Council.

(J) A licensee must be a current ~~board~~Council-approved supervisor in order to provide professional development supervision toward licensure or

specialty recognition, or to provide ~~board~~Council-ordered supervision to a licensee. Providing supervision without having met all requirements for current, valid ~~board~~Council-approved supervisor status may be grounds for disciplinary action against the supervisor.

(K) The supervisor shall ensure that the supervisee knows and adheres to ~~the Subchapter B, Rules of Practice, of this Chapter. Code of Conduct and Professional Standards of Practice of this chapter.~~

(L) The supervisor and supervisee shall avoid forming any relationship with each other that impairs the objective, professional judgment and prudent, ethical behavior of either.

(M) Should a supervisor become subject to a ~~board~~Council disciplinary order, that person is no longer a ~~board~~Council-approved supervisor and must so inform all supervisees, helping them to find alternate supervision. The person may reapply for Council-approved supervisor status by meeting the terms of the disciplinary order and having their license in good standing, in addition to submitting an application for Council-approved supervisor, and proof of completion of a 40-hour Council-approved supervisor training course, taken no earlier than the date of execution of the Council order.

(N) The ~~board~~Council may deny, revoke, or suspend

~~boardCouncil~~-approved supervisory status ~~following a fair hearing~~ for ~~a~~ violation of the Act or rules, ~~according to the commission fair hearing rules~~. Continuing to supervise after the ~~boardCouncil~~ has denied, revoked, or suspended ~~boardCouncil~~-approved supervisor status, or after the supervisor's supervisory status expires, may be grounds for disciplinary action against the supervisor.

(O) If a supervisor's ~~boardCouncil~~-approved status is expired, suspended, or revoked, the supervisor shall refund all supervisory fees the supervisee paid after the date the supervisor ceased to be ~~boardCouncil~~-approved.

(P) A supervisor is responsible for developing a well-conceptualized supervision plan with the supervisee, and for updating that plan whenever there is a change in agency of employment, job function, goals for supervision, or method by which supervision is provided.

(Q) All ~~boardCouncil~~-approved supervisors shall have taken a ~~boardCouncil~~-approved supervision training course by January 1, 2014 in order to renew ~~boardCouncil~~-approved supervisor status. The ~~boardCouncil~~ recognizes that many licensees have had little, if any, formal education about supervision theories, strategies,

problem-solving, and accountability, particularly LBSWs who may supervise licensees toward the IPR. Though some supervisors have functioned as employment supervisors for some time and have acquired practical knowledge, their practical supervision skills may be focused in one practice area, and may not include current skills in various supervision methods or familiarity with emerging supervisory theories, strategies, and regulations. Therefore, the ~~boardCouncil~~ values high-quality, contemporary, multi-modality supervision training to ensure that all supervisors have refreshed their supervisory skills and knowledge in order to help supervisees practice safely and effectively.

(12) A ~~boardCouncil~~-approved supervisor who wishes to provide supervision towards licensure as an LCSW or towards specialty recognition in Independent Practice (IPR) or Advanced Practitioner (LMSW-AP), which is supervision for professional growth, must comply with the following.

(A) Supervision toward licensure or specialty recognition may occur in one-on-one sessions, in group sessions, or in a combination of one-on-one and group sessions. Session may transpire in the same geographic

location, or via audio, web technology or other electronic supervision techniques that comply with HIPAA and Texas Health and Safety Code, Chapter 611, and/or other applicable state or federal statutes or rules.

(B) Supervision groups shall have no fewer than two members and no more than six.

(C) Supervision shall occur in proportion to the number of actual hours worked, with a base line of one hour of supervision for every 40 hours worked. If the supervisee works full-time, supervision shall occur on average at least twice a month and for no less than four hours per month; if the supervisee works part-time (at least 20 hours per week), supervision shall occur on average at least once a month and no less than two hours per month. Supervisory sessions shall last at least one hour and no more than two hours per session. No more than 10 hours of supervision may be counted in any one month, or 30-day period, as appropriate, towards satisfying minimum requirements for licensure or specialty recognition.

(D) The boardCouncil considers supervision toward licensure or specialty recognition to be supervision which promotes professional growth. Therefore, all supervision formats must encourage clear, accurate

communication between the supervisor and the supervisee, including case-based communication that meets standards for confidentiality. Though the boardCouncil favors supervision formats in which the supervisor and supervisee are in the same geographical place for a substantial part of the supervision time, the boardCouncil also recognizes that some current and future technology, such as using reliable, technologically-secure computer cameras and microphones, can allow personal face-to-face, though remote, interaction, and can support professional growth. Supervision formats must be clearly described in the supervision plan, explaining how the supervision strategies and methods of delivery meet the supervisee's professional growth needs and ensure that confidentiality is protected. The plan must be approved by the boardCouncil.

(E) Supervision toward licensure or specialty recognition must extend over a full 3000 hours over a period of not less than 24 full months and a period of not more than 48 full months for LCSW or LMSW-AP or not more than 60 full months for Independent Practice Recognition (IPR). Even if the individual completes the minimum of 3000 hours of supervised experience and minimum of 100 hours of

supervision prior to 24 months from the start date of supervision, supervision which meets the boardCouncil's minimum requirements shall extend to a minimum of 24 full months. A month is a 30-day period or the length of the actual calendar month, whichever is longer.

(F) The supervisor and the supervisee bear professional responsibility for the supervisee's professional activities.

(G) If the supervisor determines that the supervisee lacks the professional skills and competence to practice social work under a regular license, the supervisor shall develop and implement a written remediation plan for the supervisee.

(H) BoardCouncil-approved supervised professional experience towards licensure must comply with §781.401 of this title (relating to Qualifications for Licensure) and §781.402 of this title (relating to Clinical Supervision for LCSW and Non-Clinical Supervision for LMSW-AP and Independent Practice Recognition) of this title and all other applicable laws and rules.

(13) A boardCouncil-approved supervisor who wishes to provide supervision required as a result of a boardCouncil order must comply with ~~relevant provisions~~

~~of §781.413 of this title (relating to Alternate Method of Examining Competency (AMEC) Program), §781.610 of this title (relating to Due Process Following Violation of an Order) and §781.806 of this title (relating to Probation) of this title, all other applicable laws and rules, and/or the following.~~

(A) A licensee who is required to be supervised as a condition of initial licensure, continued licensure, or disciplinary action must:

(i) submit one supervisory plan for each practice location to the boardCouncil for approval by the boardCouncil or ~~executive director/its~~ designee within 30 days of initiating supervision;

(ii) submit a current job description from the agency in which the social worker is employed with a verification of authenticity from the agency director or his or her designee on agency letterhead or submit a copy of the contract or appointment under which the licensee intends to work, along with a statement from the potential supervisor that the supervisor has reviewed the contract and is qualified to supervise the licensee in the setting;

(iii) ensure that the supervisor submits reports to the boardCouncil on a schedule determined by the

boardCouncil. In each report, the supervisor must address the supervisee's performance, how closely the supervisee adheres to statutes and rules, any special circumstances that led to the imposition of supervision, and recommend whether the supervisee should continue licensure. If the supervisor does not recommend the supervisee for continued licensure, the supervisor must provide specific reasons for not recommending the supervisee. The boardCouncil may consider the supervisor's reservations as it evaluates the supervision verification the supervisee submits; and

(iv) notify the boardCouncil immediately if there is a disruption in the supervisory relationship or change in practice location and submit a new supervisory plan within 30 days of the break or change in practice location.

(B) The supervisor who agrees to provide boardCouncil-ordered supervision of a licensee who is under boardCouncil disciplinary action must understand the boardCouncil order and follow the supervision stipulations outlined in the order. The supervisor must address with the licensee those professional behaviors that led to boardCouncil discipline, and must help to remediate those

concerns while assisting the licensee to develop strategies to avoid repeating illegal, substandard, or unethical behaviors.

(C) BoardCouncil-ordered and mandated supervision timeframes are specified in the boardCouncil order.

(c) A licensee who submits one of the following: a Clinical Supervision Plan, a Non-Clinical Supervision Plan, or a BoardCouncil-Ordered Supervision Plan, to the boardCouncil for approval, shall receive a written response from the boardCouncil of either approval or deficiency related to the plan. If no written response is received by the licensee within four weeks of submission of the plan, it is the responsibility of the licensee who has submitted the plan to follow-up with the boardCouncil office related to receipt and/or status of the plan within 60 days of submission. If written approval or deficiency is sent to the last known address of the licensee, a boardCouncil response related to acceptance of the plan shall be considered to have been sent. Supervision and supervised experience hours are not acceptable to meet minimum requirements towards licensure or specialty recognition or to satisfy the terms of a boardCouncil order if not accrued under a boardCouncil-approved plan without explicit authorization from the boardCouncil.

§781.405. Application for Licensure.

(a) A licensure or specialty application must be ~~on the official form designated by and available from the board~~submitted in accordance with Council rules 882.1 and 882.2.

~~**(b)** The application process begins when the board office receives the completed application form and fee.~~

~~**(c)** The commission will acknowledge in writing receiving the application and fee within 30 working days of receipt. The letter will include the requested licensing or specialty recognition category; any documented deficiencies in qualifications; and any additional documentation, such as transcripts or supervisory references, required for the examination approval.~~

~~**(d)** The board will mail a letter approving the applicant to sit for the examination within 30 working days after the board office receives all required documentation.~~

~~**(e)** If an applicant fails to fully document his or her qualifications and/or fails to pass the examination within 12 months after filing the application, his or her application shall be voided, and the applicant will be required to reapply.~~

~~**(f)** When the applicant passes the examination, the commission~~

~~shall mail an approval notice stating the initial licensure fee.~~

~~**(g)** Under no circumstances may a license applicant falsify any application materials. If the board determines that false information has been submitted, the applicant shall be determined unfit for licensure.~~

~~**(h)** When the applicant has met all other qualifications for licensure or specialty recognition, and when the board office receives the applicant's license fee payment, the board will grant the license or specialty recognition.~~

~~**(i)** In the event an application is not processed in the time periods stated in this section, the applicant has the right to request, in writing, reimbursement of all fees paid in that particular application process. The applicant shall address the reimbursement request to the executive director, who will respond within 30 days. The director may find that good cause existed for exceeding the time period and may deny the request. In that event, the applicant may appeal in writing to the board chairperson, addressed to the board office. The chairperson shall review the executive director's report of the situation and may approve or deny, in writing, the applicant's request for reimbursement of fees.~~

§781.406. Required Documentation of Qualifications for Licensure.

(a) Application form. An applicant for licensure must submit a completed official application form with all requested information.

(b) Education verification.

(1) The applicant's education must be documented by official college transcripts from social work educational units accredited by CSWE.

(2) Degrees for licensure as an LBSW or LMSW must be from programs accredited or in candidacy for accreditation by CSWE. ~~(Current written verification of a program's CSWE candidacy status must be on file with the boardCouncil.) College or university degrees from outside of the United States and its territories must be from programs judged by the CSWE to be equivalent to a CSWE accredited program in the United States.~~

(c) Experience verification.

(1) An applicant's experience for licensure or for specialty recognition must meet the requirements of §781.401 of this title (relating to Qualifications for Licensure), §781.402 of this title (relating to Clinical Supervision for LCSW and Non-Clinical Supervision for LMSW-AP and Independent Practice Recognition), and §781.404 of this title (relating to Recognition

as a ~~Board~~Council-approved Supervisor and the Supervision Process). The applicant must document the names and addresses of supervisors; beginning and ending dates of supervision; job description; and average number of hours of social work activity per week. The applicant must further document the appropriate supervision plan and verification form, both approved by the ~~board~~Council, for each practice location. If any elements described in the supervision plan change, including but not limited to work hours, full- or part-time work status, location of supervision, or name of supervisor, the applicant must submit the appropriate verification form within 30 days of the change or supervision termination. The applicant must submit a new, complete supervision plan for ~~board~~Council approval within 30 days of beginning the new supervision agreement.

(2) The applicant's experience must have been in a position providing social work services, under the supervision of a qualified supervisor, with written evaluations to demonstrate satisfactory performance.

(3) Supervised experience must have occurred within the five calendar years immediately preceding the date of application.

(4) The applicant must maintain and upon request, provide to the boardCouncil documentation of employment status, pay vouchers, or supervisory evaluations.

~~(d) References. An applicant must list on the official application the names and addresses of three individuals familiar with the applicant's professional qualifications. The boardCouncil may contact the references for verification of the applicant's qualifications and fitness.~~

~~(e) Jurisprudence examination. Applicants for a license must complete the boardCouncil's jurisprudence examination and submit proof of completion at the time of application. The jurisprudence examination must have been completed no more than six months prior to the date of application.~~

~~§781.407. Fitness of Applicants for Licensure:~~

~~(a) To determine the applicant's fitness, the board shall consider the applicant's skills and abilities to provide adequate social work services to clients; the applicant's ethical behavior in relationships with other professionals and clients; and the applicant's worthiness of public trust and confidence.~~

~~(b) The board may consider a person, who has committed any act that would have been a violation of the Act or this chapter had the person been licensed at~~

~~the time the act was committed, as unworthy of public trust and confidence.~~

~~(c) Surrender or revocation of a social work license within the previous five years while under investigation or under a board order for professional misconduct shall be considered evidence that the person is unworthy of public trust and confidence.~~

~~(d) In determining fitness, the board may also consider a surrender, revocation, or violation of a board order which occurred more than five years before application.~~

~~§781.408. Materials Considered in Determination of Fitness of Applicants:~~

~~In determining the fitness of applicants, the board shall consider evaluations and assessments of supervisors, employers, instructors, and other individuals who can attest to the applicant's fitness for practice; transcripts or findings from official court, hearing, or investigative proceedings; and other relevant information.~~

~~§781.409. Finding of Non-fitness:~~

~~(a) The board may deny a license, license renewal, or specialty recognition if it substantiates that the applicant lacks the necessary skills and abilities to provide adequate social work services; has misrepresented any materials in~~

~~the licensure application or renewal application, or any materials submitted to the board; has violated any provision of the Act in effect when the applicant applied; or has violated the Code of Conduct, Standards of Practice, or any other section of this chapter which would have applied had the applicant been licensed when he/she committed the violation.~~

~~(b) The board may require an applicant for licensure or licensure renewal to obtain a criminal background check from a board-designated agency and to provide the board an official copy of that report. The board may consider the report in determining the applicant's eligibility for licensure or renewal. Failure to obtain the background check within 30 days of the board's request is grounds for denying the application.~~

~~§781.410. Provisional Licenses.~~

~~The board may grant a provisional social work license to a person who holds, at the time of application, a social work license or certificate issued by another jurisdiction acceptable to the board, and who applies for the provisional license in writing and submits all required academic and experience documentation required for licensure. The applicant must have passed an equivalent licensing test as accepted by the board. If granted a provisional license, the individual must use the appropriate licensing title followed by the word "provisional." If the board deems~~

~~that the applicant meets the requirements for licensure set forth in this Act, the board will issue a regular license. If the board determines that the applicant does not meet this state's licensing requirements, the board will deny the application, and the provisional license will no longer be valid.~~

§781.411. Temporary License.

(a) Prior to examination, a licensure applicant may obtain a temporary social work license as long as the applicant meets all the requirements, except the licensing examination, for the license category the applicant seeks.

(b) A person holding a temporary license must take the designated examination within six months of issuance of the temporary license.

(c) The temporary license is valid until the licensee attempts the appropriate examination or the end of the six-month issuance of the temporary license.

(d) A person holding a temporary license must display the license at the licensee's place of business and must use the appropriate licensed title or initials followed by the word "Temporary" in all professional use of the licensee's name.

(e) Should the applicant take and fail the examination, the temporary license is no longer valid. The applicant must immediately cease and desist from using the temporary license

and title, and return the license certificate and certificate card to the boardCouncil.

(f) Should the applicant pass the examination, the boardCouncil will issue the license or specialty recognition ~~in accordance with §781.405(g) of this title (relating to Application for Licensure)~~. A temporary license holder who has passed the licensing examination continues to be temporarily licensed until the boardCouncil issues a regular license or the temporary license expires.

(g) A person who failed the examination and is without a valid temporary license may retake the examination under §781.412 of this title (relating to Examination Requirement).

(h) A temporary license will not be granted to an applicant who has held a temporary license for the same license category previously within his/her lifetime.

(i) An applicant for LCSW or specialty recognition is not eligible for a temporary or provisional license.

(j) Applicants requesting a temporary license must submit the application form and ~~temporary~~ fee required by the boardCouncil.

§781.412. Examination Requirement.

(a) An applicant for licensure or specialty recognition must pass an examination designated by the boardCouncil.

(b) When an applicant passes the examination, the individual has no more than one year from the date of passing the examination to complete the requirements for licensure, completing all documentation and paying all fees or the passing examination score will no longer count towards licensure.

(c) If an applicant fails the examination on the first attempt of his/her lifetime, the individual may retake the examination no more than two additional times. An applicant who has failed the examination on the first, second, and third attempts must ~~request in writing to the board to retake the examination a fourth time.~~ The board may order the applicant to complete one or more social work educational courses as a prerequisite to retaking the examination comply with Council rule 882.6.

~~(d) An applicant who fails the examination must wait the required timeframe between examination administrations. The board or executive director may waive the waiting period if the applicant petitions in writing, justifying the waiver in accordance with board policy.~~

~~(e) If an applicant fails the examination on the fourth attempt, the person's application will be voided. The applicant will not be permitted to reapply for licensure for one year. Each subsequent attempt must be~~

~~approved by the appropriate committee of the board.~~

(f) The ~~board~~Council may waive the examination for an applicant with a valid certificate or license from another state if the certificate or license was issued before January 1, 1986, if petitioned in writing.

(g) On the basis of a verified report from ASWB that an applicant has cheated on the examination, the application shall be denied.

~~§781.413. Alternate Method of Examining Competency (AMEC) Program.~~

~~**(a)** An applicant who has taken an examination within the previous 12 months and who has failed the examination on two or more occasions by no more than five points may submit a written petition to the board for an LBSW or LMSW license. It is also the applicant's responsibility to contact ASWB and secure the test scores to submit to the board. The applicant must apply, pay the administrative fee, and submit the memorandum of understanding and the findings of facts documentation to the board to be considered for AMEC.~~

~~**(b)** The board will consider the public interest in reviewing the petition and will issue its written decision after the next full board meeting at which the petition and the applicant's required materials are reviewed.~~

~~**(c)** The written decision will explain why the board has denied AMEC participation, or outline the terms of participation under which the AMEC license is granted.~~

~~**(d)** The participant must complete the professional portfolio, quarterly reports and other requirements within the board's required timeframe.~~

~~**(e)** If the participant is deficient 45 days or more from the due date provided by the commission in submitting the professional portfolio and other requirements, the participant is in default of the program, documents will not be accepted toward completion of the program and the participant will be removed from the program.~~

~~**(f)** If a participant is removed from the program, the participant must meet the requirements in item (a) of this section before the board will consider allowing the applicant to enter into the AMEC program again.~~

~~**(g)** If a participant fails to comply with the requirements of the program, or is removed from the program, the participant must wait 1 year before the board will consider readmitting the applicant in to the program.~~

~~**(h)** The participant must complete the AMEC program in no less than 12 and no more than 24 consecutive calendar months from the date of board's agreed order unless the board gives prior approval.~~

~~(i) An AMEC participant remains under the supervision of a board-approved supervisor until the board has reviewed the required documents and issued a final order regarding the board's issuance of a regular license. The board may require continued supervision reports.~~

~~(j) The board may grant a regular license to an applicant who successfully completes the AMEC participation terms.~~

§781.414. ~~Issuance of~~ License Certificates.

~~_(a) The board issues license certificates and license cards indicating the social work title, whether LBSW, LMSW or LCSW, granted to applicants who have met all of the board's qualifications. The board-issued license cards will indicate the license expiration date. The board shall indicate the new expiration date of a renewed license on the board-issued cards. The license certificate will also include any applicable specialty recognition or supervisory status.~~

(ba) The licensee must include the license title or associated initials in all professional uses of the licensee's name as required by the Act, §505.351, as in Licensed Clinical Social Worker - LCSW; Licensed Master Social Worker - LMSW; or Licensed Baccalaureate Social Worker - LBSW. If the licensee holds a specialty recognition, he or she shall use the specialty recognition

initials as well: Licensed Master Social Worker with non-clinical Independent Practice Recognition - LMSW-IPR; Licensed Baccalaureate Social Worker with non-clinical Independent Practice Recognition - LBSW-IPR; or Licensed Master Social Worker with Advanced Practitioner Recognition - LMSW-AP.

~~(e) A licensee shall display an original board-issued license certificate, a current license card, and a copy of the Code of Conduct in a prominent place in all practice locations.~~

~~(d) The board will post its client information brochure on the board's website.~~

~~(e) A licensee who offers social work services on the Internet must include a statement that the licensee is licensed by the State of Texas and provide a copy of the Code of Conduct with the information on how to contact this board by mail or telephone.~~

~~(f) Upon a client's request, a licensee shall provide information regarding his or her license category and how to contact the board.~~

§781.415. ~~Application Denial.~~

~~(a) The board may deny an application if the applicant does not meet all requirements for licensure or specialty recognition.~~

~~(b) A person whose application for licensure or specialty recognition is denied is entitled to a formal hearing as set out in~~

Subchapter G of this chapter
(relating to Formal Hearings).

~~§781.416. Required Reports to the Board.~~

~~(a)~~ A licensee shall make written reports to the board office within 30 days of the following:

- ~~(1)~~ a change of mailing address, place of employment or business or home phone number;
- ~~(2)~~ the licensee's arrest, deferred adjudication, or criminal conviction, other than a Class C misdemeanor traffic offense;
- ~~(3)~~ the filing of a criminal case against the licensee;
- ~~(4)~~ the settlement of or judgment rendered in a civil lawsuit filed against the licensee and relating to the licensee's professional social work practice; or
- ~~(5)~~ complaints, investigations, or actions against the licensee by a governmental agency or by a licensing or certification body.

~~(b)~~ The board may use information received under subsection (a) of this section to determine whether a licensee remains fit to hold a license.

~~(c)~~ Failure to make a report as required by subsection (a) of this section is grounds for disciplinary action by the board.

~~§781.417. Surrender of License.~~

~~(a)~~ Surrender by licensee.

~~(1)~~ A licensee may at anytime voluntarily offer to surrender his or her license for any reason, without compulsion.

~~(2)~~ The license may be delivered to the board office by hand or mail. The licensee must cease practice as a social worker pending action from the board on the surrender of the licensee's license.

~~(3)~~ If there is no complaint pending, the board office may accept the surrender and void the license.

~~(b)~~ Formal disciplinary action.

~~(1)~~ When a licensee has offered the surrender of his or her license after a complaint has been filed, the board shall consider whether to accept the surrender of the license.

~~(2)~~ When the board has accepted such a surrender, the surrender is deemed to be the result of a formal disciplinary action and a board order shall be prepared accepting the surrender.

~~(3)~~ In order to accept a surrender, the board may require the licensee to agree to certain findings of fact and conclusions of law, including admitting to a violation of the Act or this chapter.

~~(4)~~ When the board does not accept an offer of surrender or when the licensee fails to renew the license, the board is not deprived of jurisdiction against

~~the licensee under the Act or any other statute.~~

~~(c) Reinstatement. A license, which has been surrendered by the licensee and accepted by the board, may not be reinstated; however, a person may apply for a new license in accordance with the Act and this chapter.~~

§781.418. Issuance of Licenses to Certain Out-of-State Applicants.

(a) Notwithstanding any other licensing requirement of this chapter or the Act:

(1) The boardCouncil may not require an applicant who is licensed in good standing in another state to retake a licensing examination conducted by the boardCouncil under the Act if the applicant has passed the same examination in another jurisdiction.

(2) The boardCouncil may issue a license to an applicant who is currently licensed in another jurisdiction to independently practice social work if the boardCouncil determines that the applicant demonstrates sufficient experience and competence; has passed the licensing examination appropriate to the category of licensure the applicant seeks; has passed the jurisprudence examination conducted by the boardCouncil under the Texas Occupations Code, §505.3545; and is in good standing with the regulatory body of the licensing

jurisdiction at the time the applicant applied in Texas.

(b) When assessing the applicant's experience and competence, the boardCouncil may consider any supervision the applicant received in another jurisdiction if the boardCouncil determines that the supervision would be considered for licensing or certification in the jurisdiction in which the applicant received the supervision.

§781.419. Licensing of Military Service Members, Military Veterans, and Military Spouses

~~_(a) This section sets out licensing procedures for military service members, military veterans, and military spouses required under Texas Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses). For purposes of this section:~~

~~—(1) "Active duty" means current full-time military service in the armed forces of the United States or active-duty military service as a member of the Texas military forces, as defined by Texas Government Code, §437.001 or similar military service of another state.~~

~~—(2) "Armed forces of the United States" means the army, navy, air force, coast guard, or marine corps of the United States or a reserve unit of one of those branches of the armed forces.~~

~~—(3) "License" means a license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business.~~

~~—(4) "Military service member" means a person who is on active duty.~~

~~—(5) "Military spouse" means a person who is married to a military service member.~~

~~—(6) "Military veteran" means a person who has served on active duty and who was discharged or released from active duty.~~

~~(b) An applicant shall provide documentation of the applicant's status as a military service member, military veteran, or military spouse. Acceptable documentation includes, but is not limited to, copies of official documents such as military service orders, marriage licenses, and military discharge records. The application of a person who fails to provide documentation of his or her status shall not be processed under the requirements of this section.~~

~~(e) Upon request, an applicant shall provide acceptable proof of current licensure issued by another jurisdiction. If the applicant has been licensed in the jurisdiction one year immediately preceding the date of application, the applicant will be deemed to have met the experience requirement under this chapter.~~

~~(d) The board's authority to require an applicant to undergo a criminal history background check, and the timeframes associated with that process, are not affected by the requirements of this section.~~

(a) An applicant applying for licensure under this section must comply with Council rule §882.60.

(b) Licensing requirements that either match or exceed Texas requirements are considered substantially equivalent.

(ec) For an application for a license submitted by a verified military service member or military veteran, the applicant shall receive credit towards any licensing or apprenticeship requirements, except an examination requirement, for verified military service, training, or education that is relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has an unacceptable criminal history as described by the Act and this chapter.

~~(f) An applicant who is a military service member, military veteran, or military spouse who holds a current, unrestricted, license issued by another jurisdiction that has substantially equivalent licensing requirements shall complete and submit an application form and a supplemental application form for military service member, veteran, or military spouse. As soon as practicable after a complete application under this subsection is filed, the board will process and issue a license to~~

~~an applicant who holds such a license, satisfies the application and supplemental application requirements, and meets the requisite substantial equivalency requirements of the other state, if the applicant has no unresolved allegations or criminal background relevant to the license, and there are no other facts or circumstances providing grounds for denial of the license. The license will have the same term as the applicable license type otherwise issued under the Act and this subchapter. Renewal of the license shall be in accordance with subsection (i) of this section.~~

~~(g) In accordance with Texas Occupations Code, §55.004(c), the executive director may waive any prerequisite to obtaining a license after reviewing the applicant's credentials and determining that the applicant holds a license issued by another jurisdiction that has licensing requirements substantially equivalent to those of this state.~~

~~(h) An applicant who is a military service member, military veteran, or military spouse who held a registration in this state within the preceding year of the application date, and without restriction, shall complete and submit an application form and a supplemental application form for military service member, veteran, or military spouse. As soon as practicable after a complete application under this subsection is filed, the board will process and issue a registration~~

~~to an applicant who held such a registration and who satisfies the application and supplemental application requirements, if there are no unresolved allegations against the applicant or criminal background relevant to the registration, or other facts or circumstances providing grounds for denial of the registration. Renewal of the registration shall be in accordance with subsection (i) of this section.~~

~~(i) If the board issues an initial license to an applicant who is a military service member, military veteran, or military spouse in accordance with subsection (f) of this section, the board shall assess whether the applicant has met all licensing requirements of this state by virtue of the current license issued by another jurisdiction. The board shall provide this assessment in writing to the applicant at the time the license is issued. If the applicant has not met all licensing requirements of this state, the applicant must provide proof of completion at the time of the first application for license renewal. A license shall not be renewed, shall be allowed to expire, and shall become ineffective if the applicant does not provide proof of completion at the time of the first application for licensure renewal.~~

~~(j) Notwithstanding any other law, the board will waive the license application fees paid to the state for an applicant described in paragraph (1) or (2) of this~~

subsection. An applicant shall provide any proof requested by the board that the applicant is:

~~—(1) a military service member or military veteran whose military service, training, or education substantially meets all applicable requirements for the license; or~~

~~—(2) a military service member, military veteran, or military spouse who holds a current license issued by another jurisdiction for one year.~~

~~(k) For license renewal, the board will exempt an individual who holds a license issued by the board from any increased fee or other penalty imposed for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the executive director that the individual failed to renew the license in a timely manner because the individual was serving as a military service member.~~

~~(l) A military service member who holds a license is entitled to two years of additional time beyond the expiration date of the license to complete:~~

~~—(1) any continuing education requirements; and~~

~~—(2) any other requirement related to the renewal of the military service member's licensure.~~

~~SUBCHAPTER E. LICENSE RENEWAL AND CONTINUING EDUCATION.~~

~~§781.501. General.~~

~~(a) A license must be renewed biennially.~~

~~(b) A licensee must have fulfilled any continuing education requirements that this chapter prescribes in order to renew a license.~~

~~(c) Each person who holds a license is responsible for renewing the license and shall not be excused from paying penalty fees for late renewal. Failure to receive notice from the board does not waive payment of penalty fees.~~

~~(d) The board may deny the license renewal of a licensee who is in violation of the Act, or this chapter, at the time of renewal application.~~

~~(e) A person whose license has expired shall not use the terms or titles described in the Act, §505.351. The person shall return his or her license to the board.~~

~~(f) The deadlines established for renewals, late renewals, and penalty fees are based on the postmarked date or electronic submission date by which the licensee submits documentation.~~

~~(g) The board shall deny renewal if required by the Education Code, §57.491 (relating to Defaults on Guaranteed Student Loans).~~

~~(h) The board upon receipt of a final court or attorney general's order will suspend a license due to failure to pay child support per the Family Code, Chapter 232, regarding suspension of licenses. The individual must pay the~~

reinstatement fee set out in §781.316 of this title (relating to Fees).

~~(i) A license must be renewed and in good standing prior to the licensee obtaining a different category of licensure.~~

~~§781.502. Renewal Cycles.~~ The license renewal date is the last day of the month of the licensee's birth month. The first renewal of licensure following issuance of the license will be valid for a period of 13 to 24 months, depending on the licensee's birth month. Subsequent to the first renewal period, licenses must be renewed every two years, and the renewal extends for two years.

~~§781.503. License Renewal.~~

~~(a) At least 45 days prior to the expiration of a license, the board will send the licensee notice of the expiration date, schedule of renewal fees and penalties, and continuing education activities required for renewal. The licensee is responsible for renewing his/her license, regardless of whether or not the licensee receives a notification.~~

~~(b) The board will provide eligible licensees with renewal forms, soliciting the licensee's current address and contact numbers; completed continuing education; information regarding civil lawsuits and criminal complaints; any governmental agency or licensing body's action against the licensee; and a statement of~~

continuing compliance with the Act and this chapter.

~~(c) When the board office receives the completed application, the executive director will respond within 15 working days to notify the applicant about the status of the application. Failure to process a renewal application in the time periods stated shall be governed by §781.405(h) of this title (relating to Application for Licensure).~~

~~(d) The board shall renew the license of a social worker who has met all renewal requirements, including fee payments, completed documentation, and evidence of completed continuing education requirements.~~

~~(e) If a licensee has made timely and sufficient application for license renewal, the license does not expire until the board has acted on the renewal. If the licensee claims to have made timely, sufficient application and is otherwise eligible for renewal, the license will remain current until the renewal is issued or until the board office determines that the application was not timely or sufficient.~~

~~(f) A licensee who has been recommended for disciplinary action must file a timely and complete license renewal application, pay all fees, and verify that required continuing education is complete. If he/she fails to do these things, the licensee must cease all social~~

work practice until all renewal requirements are complete.

~~(g)~~ The board may deny a license renewal if the licensee is a party to a formal disciplinary action. A formal action commences when the board mails notice described in §781.602(c) of this title (relating to Disciplinary Action and Notices).

~~(h)~~ A license that is not revoked or suspended as a result of formal proceedings shall be renewed provided that all other requirements are met.

~~(i)~~ In the case of delay in the license renewal process because of formal disciplinary action, penalty fees shall not apply.

~~(j)~~ The board may refuse to renew the license of a person who fails to pay an administrative penalty imposed in accordance with the Act unless the enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.

~~§781.504. Late Renewal.~~

~~(a)~~ A person who fails to meet all the requirements to renew his or her license by the renewal date ceases to be licensed.

~~(b)~~ A person who renews a license after the expiration date but on or before 90 days after the expiration date shall pay the renewal fee and appropriate penalty fees.

~~(c)~~ A person whose license was not renewed on or before 90 days

from the expiration date may renew within one year of the expiration date by paying the appropriate renewal and penalty fees.

~~(d)~~ A person whose license has expired must document that he/she completed all continuing education requirements in order to renew the license. A licensee who has not completed all required continuing education in the renewal period shall cease practice and must complete all continuing education before the board will allow the individual to renew. In that case, the board may impose late renewal fees and additional fees.

~~(e)~~ On or after one year from the expiration date, a person may no longer renew the license and must reapply by submitting a new application, paying the required fees, and meeting the current requirements for the license including passing the licensure examination.

~~§781.505. Inactive Status.~~

~~(a)~~ A licensee may request his or her active license be placed on inactive status by submitting to the board the designated form and fee.

~~(b)~~ A licensee cannot practice while the license is inactive.

~~(c)~~ Board approved supervisory authority is relinquished upon moving the license to inactive status.

~~(d)~~ Inactive licenses remain subject to disciplinary action by the board.

~~(e)~~ No continuing education is required while a license is inactive.

~~(f)~~ To return an inactive license to active status the licensee must submit:

~~—(1)~~ a reactivation form designated by the board;

~~—(2)~~ a reactivation fee as set forth in this chapter;

~~—(3)~~ proof of completion of jurisprudence exam, no more than six months prior to submitting request for active status; and

~~—(4)~~ proof of completion of continuing education for the licensee's current two-year renewal period.

~~(g)~~ Neither continuing education nor fees will be prorated.

~~(h)~~ To regain board-approved supervisory authority the licensee must reapply meeting all current requirements.

~~§781.506. Emeritus Status.~~

~~(a)~~ A licensee who is at least 60 years of age or disabled, and who is not engaged in professional social work practice, may request emeritus status in writing to the board. An emeritus license must be renewed every two years but requires no renewal fee or continuing education.

~~(b)~~ The emeritus licensee may only use his or her emeritus title while providing social work

services as a volunteer without compensation. The emeritus licensee who volunteers social worker services is under the board's jurisdiction and must comply with the Code of Conduct and Professional Standards of Practice, as well as the Act and the rule requirements in this chapter.

~~(c)~~ An emeritus licensee whose license is in good standing can be reinstated to an active license within 48 months of conversion to emeritus status. To be eligible for an active license through reinstatement of an emeritus license, the emeritus licensee shall submit an application for licensure at the appropriate category, as well as proof of completion of the Jurisprudence Exam within six months prior to requesting reactivation, and payment of the licensing fee. Verification of education, supervision, and examination score is not required.

~~(d)~~ An emeritus licensee who reactivates his/her license within 48 months of conversion to emeritus status may not regain board-approved supervisor status upon activation without verification of completion of minimum requirements as a board-approved supervisor in place at the time of reactivation. An emeritus licensee who reactivates his/her license within 48 months may regain other specialty recognition(s) without demonstration of meeting current

minimum requirements for that specialty recognition.

~~(e) An emeritus licensee who does not reactivate his/her license within 48 months of conversion to emeritus status may not convert the license to active status except as follows. An emeritus licensee who did not reactivate his/her license within 48 months of conversion must reapply for active licensure and meet all current minimum requirements for licensure, specialty recognition, and board-approved supervisor status in place at the time of application. If all current minimum requirements for licensure are met, upon issuance of a new license and license number, the emeritus license will be null and void.~~

~~(f) A licensee who converts to emeritus status may only reactivate the license to active status once per lifetime.~~

~~§781.507. Active Military Duty.~~

~~(a) A licensee on active duty with the Armed Forces of the United States who is not practicing in the State of Texas at the time of renewal is exempt from the renewal requirement and may, within one year of his or her return to Texas or release from active duty, whichever occurs first, request reinstatement of his or her license.~~

~~(b) The board will issue a license on receipt of the request for reinstatement, documentation of his or her active duty status at~~

~~the time the license expired, and the fee for the current license. No continuing education will be required prior to reinstatement and no penalty fees will be charged.~~

§781.508. Hour Requirements for Continuing Education.

(a) A licensee must complete a total of 30 clock-hours biennially of continuing education, ~~obtained from board-approved continuing education providers. A licensee must complete a total of 30 clock-hours of continuing education obtained from a board-approved continuing education provider including which also includes~~ the first renewal of the licensure following issuance of the license, ~~which is valid for a period of 13 to 24 months, depending on the licensee's birth month.~~

(b) As part of the required 30 biennial clock-hours, a licensee must complete a minimum of six clock-hours of continuing education in professional ethics and social work values.

(c) A clock-hour is defined as 60 minutes of standard time.

(d) A licensee may earn credit for ethics as a presenter or a participant.

~~(e) Upon a licensee's petition, the executive director may waive part, but not all, of the continuing education renewal requirements for good and just cause or may permit the licensee additional time to complete all continuing~~

education requirements. If the director decides not to waive requirements, a licensee may appeal to the board, which may elect to waive the late fees accrued. Should the board not uphold the licensee's petition, all late fees accrued will apply.

§781.509. Types of Acceptable Continuing Education.

To be acceptable for the purposes of license renewal or satisfaction of disciplinary stipulations the education must be received from a continuing education provider that:

- (1) ensures that the education provided is directly related to the practice of social work;
- (2) ensures that the individual(s) presenting the information have the necessary experience and knowledge in the topic(s) presented;
- (3) verifies attendance of participants and provides participants with a letter, certificate, or transcript that displays the licensee's name, topic covered, date(s) or academic period course was taken, and hours of credit earned;
- (4) provides participants a mechanism for evaluation of each continuing education activity; and
- (5) maintains all continuing education records and documentation for at least three years.

~~The board accepts continuing education in which the licensee learns by:~~

- ~~(1) participating in institutes, seminars, workshops, conferences, independent study programs, post graduate training programs, college academic or continuing education courses which relate to or enhance the practice of~~

~~social work and are offered by a board-approved provider;~~

~~(2) teaching or presenting the activities described in paragraph (1) of this section;~~

~~(3) writing a published work or presenting work applicable to the profession of social work;~~

~~(4) serving as a field instructor for social work interns attending a college or university accredited by or in candidacy status with CSWE;~~

~~(5) providing supervision to a social worker participating in the program in accordance with §781.413 of this title (relating to the Alternative Method of Examining Competency (AMEG) Program); or~~

~~(6) completing the board's jurisprudence training course no more than once per renewal period, unless the board directs otherwise.~~

§781.510. Activities Unacceptable as Continuing Education. The ~~board~~Council will not give credit hours for:

- (1) education incidental to the regular professional activities of a social worker such as learning occurring from experience or research;
- (2) organizational activity such as serving on committees or councils or as an officer in a professional organization;
- (3) meetings and activities such as in-service programs required

as a part of one's job, unless the in-service training is acceptable continuing education under §781.509 of this title (relating to Types of Acceptable Continuing Education);

(4) college academic courses which are audited or not taken for credit; or

(5) any experience which does not fit the types of acceptable continuing education in §781.509 of this title.

~~§781.511. Requirements for Continuing Education Providers~~

~~(a) A provider must be approved under this section to offer continuing education programs.~~

~~(b) A person seeking approval as a continuing education provider shall apply using board forms and include the continuing education provider application fee. Governmental agencies shall be exempt from paying this fee.~~

~~(c) Entities that receive automatic status as approved providers without applying or paying fees include accredited colleges and universities; a national or statewide association; board or organization representing members of the social work profession; nationally accredited health or mental health facilities; or a person or agency approved by any state or national organization in a related field such as medicine, law, psychiatry, psychology, sociology, marriage and family therapy, professional~~

~~counseling, and similar fields of human service practice.~~

~~Regarding entities that receive automatic status as approved providers under this section, the board will not provide documentation of board-approved status nor will the board include such entities in its roster of board-approved providers.~~

~~(d) The applicant shall certify on the application that all programs that the provider offers for board-approved credit hours will comply with the criteria in this section; and the provider will be responsible for verifying attendance at each program and provide an attendance certificate as set forth in subsection (k) of this section.~~

~~(e) A program the provider offers for board-approved credit hours shall advance, extend, and enhance the licensees' professional social work skills and knowledge; be developed and presented by persons who are appropriately knowledgeable in the program's subject matter and training techniques; specify the course objectives, course content, teaching methods, and number of credit hours; specify the number of credit hours in ethics and values separately and as part of the total hours credited.~~

~~(f) The provider must document each program's compliance with this section, maintaining that documentation for three years.~~

~~(g)~~ Commission staff shall review the continuing education provider application and notify the applicant of any deficiencies or grant approval, assigning the continuing education provider approval number which shall be noted on all certificates.

~~(h)~~ Each continuing education program shall provide participants an evaluation instrument which may be completed on-site or returned via the web or by mail. The provider and the instructor shall review the evaluation outcomes and consider those outcomes in revising subsequent programs, keeping all evaluations for three years and allowing the board to review the evaluations on request.

~~(i)~~ The provider will supply a list of subcontractors as part of the renewal process or upon request.

~~(j)~~ To maintain continuing education provider approval, each provider shall annually apply to renew provider status and pay applicable fees.

~~(k)~~ It is the provider's responsibility to provide each program participant with a legible certificate of attendance after the program ends. The certificate shall include the provider's name, approval number, and expiration date of the provider's approved status; the participant's name; the program title, date, and place; the credit hours earned, including the ethics hours credited; the provider's signature

or that of the provider's representative; and the board contact information, which shall at a minimum, include the board's name and web address.

~~(l)~~ The provider is responsible for assuring that the licensee receives credit only for time actually spent in the program.

~~(m)~~ If the provider fails to comply with these requirements, the board, after notice to the provider and due process hearing, may revoke the provider's approval status.

~~(n)~~ The board may evaluate any provider or applicant at any time to ensure compliance with requirements of this section.

~~(o)~~ Complaints regarding continuing education programs offered by approved providers may be submitted in writing to the executive director.

~~(p)~~ A program offered by a provider for credit hours in ethics shall meet the minimum course requirements for an ethics course approved by the board.

~~§781.512. Evaluation of Continuing Education Providers.~~

~~(a)~~ Commission staff shall audit approved continuing education providers regularly, reporting audit results to the board. During the audit, staff shall request the provider's documentation regarding compliance with §781.511 of this title (relating to

Requirements for Continuing Education Providers):

~~(b) Commission staff shall notify a continuing education provider of the results of an audit. A continuing education provider who does not comply with these regulations shall implement a correction plan to address deficiencies, and will submit documentation of these corrective measures to the board within 30 days of the board's notice that corrective actions are necessary.~~

~~(c) The board shall review and may rescind the approval status of continuing education providers.~~

~~(d) If the board receives written complaints about continuing education offered by approved providers, the commission may audit the provider and refer the matter to the board for appropriate action.~~

~~(e) A provider whose approval status has been rescinded may reapply for approval on or after the 91st day following the board action. The provider must document that corrective action has been taken and that the provider's programs will be presented in compliance with §781.511 of this title. The board shall review the reapplication.~~

~~(f) A licensee may not count hours to renew the license if those continuing education hours were received from a provider has failed to meet renewal requirements, or whose approval has been denied or rescinded by~~

~~the board but is accepted by another approval entity.~~

~~(g) Fees paid by a provider whose approval has been rescinded or denied are non-refundable.~~

~~§781.513. Acceptance of Continuing Education Approved by Another Licensing Board:~~

~~(a) A licensee may request in writing that the board approve continuing education hours provided by a non-approved provider. The licensee shall submit documentation as specified in §781.511(e) of this title (relating to Requirements for Continuing Education Providers) for the board to review and a fee equal to the continuing education provider application fee.~~

~~(b) The executive director will review the documentation and notify the licensee in writing whether the program(s) are acceptable as credit hours. This decision may be appealed to the board.~~

§781.514. Credit Hours Granted. The board~~Council~~ will grant the following credit hours toward the continuing education requirements for license renewal.

(1) One credit hour will be given for each hour of participation in a continuing education program ~~by an approved provider.~~

(2) Credit may be earned, post-licensure, through successfully completing postgraduate training programs (e.g., intern, residency,

or fellowship programs) or successfully completing social work courses in a graduate school of social work at a rate of five credit hours per each semester hour or its equivalent not to exceed 10 hours per renewal period. A licensee may complete the ethics requirement in §781.508(a) of this title (relating to Hour Requirements for Continuing Education) only through a course specifically designated as an ethics course.

(3) Credit may be earned for teaching social work courses in an accredited college or university. Credit will be applied at the rate of five credit hours for every course taught, not to exceed 15 hours per renewal period. A licensee may complete the ethics requirement in §781.508(a) of this title only through teaching a course specifically designated as an ethics course.

(4) A field instructor for a social work intern will be granted five credit hours for each college semester completed, not to exceed 20 credit hours per renewal period.

(5) A presenter of a continuing education program or an author of a published work, which imparts social work knowledge and skills, may be granted five credit hours for each original or substantially revised presentation or publication, not to exceed 20 credit hours per renewal period.

(6) A licensee may carry over to the next renewal period up to 10 credit hours earned in excess of the continuing education renewal requirements. Continuing education earned during the licensee's birth month may be used for the current renewal or for the following year.

(7) Completing the jurisprudence examination shall count as three hours of the continuing education requirement in ethics and social work values, as referenced in §781.508(b) of this title.

~~§781.515. Continuing Education Documentation.~~

~~**(a)** Licensees must verify their credit hours on the board's license renewal form. Failing to submit the form with completed continuing education hours is grounds to deny the application for license renewal.~~

~~**(b)** Licensees must maintain documentation of their continuing education for three years.~~

~~**(c)** The board will review a random sample of applications for quality control. A licensee selected for review will be notified by mail and required to submit acceptable documentation of the continuing education listed on the continuing education report form. Documentation must specify the subject, date(s), credit hours, name of sponsor, board-issued sponsor approval number or other identifying sponsor information (if applicable) and board contact information. The licensee shall~~

~~include such items as copies of attendance certificates or other attendance verification from the provider; grade reports or transcripts verifying that a college course is completed; letters from deans, directors, department chairs, or their representatives verifying a field instructor assignment; letters from program sponsors verifying the licensee presented continuing education; or copies of continuing education programs or other documentation verifying that the continuing education was relevant to social work when the program does not have an assigned provider number.~~

~~§781.516. Requirements of Supervisor Training Course Providers:~~

~~(a) A supervisor training course provider must be an approved continuing education provider or exempt under §781.511 of this title (relating to Requirements for Continuing Education Providers) to apply for approval as a supervisor training course provider. A provider shall apply on board forms.~~

~~(b) A supervisor training course provider must be approved under this section to offer supervisor training courses. The board shall maintain a list of supervisor training course providers on the board's website.~~

~~(c) The applicant shall certify on the application that all supervisor training courses that the provider~~

~~offers for board credit will comply with the criteria in this section; and that the supervisor training course provider will be responsible for verifying attendance at each program and provide an attendance certificate as set forth in this section.~~

~~(d) A supervisor training course offered for board credit shall enhance recipients' professional knowledge and skills about supervision so that they can successfully fulfill the supervision duties the board expects board-approved supervisors to complete. The course shall be developed and presented by persons who are appropriately knowledgeable in supervision theories, strategies, and techniques. It shall specify the course objectives, course content, and teaching methods.~~

~~(e) The supervisor training course provider must document that each course complies with this section and maintain that documentation for a period of three years.~~

~~(f) To be approved, an applicant must demonstrate compliance with the board's course content guidelines. The board will review the supervisor training course provider application and notify the applicant of any deficiencies or grant approval. If the applicant is not already a board-approved continuing education provider, the applicant will be notified of the deficiency of this requirement. Once minimum requirements are~~

met, the board-approved supervisor training course provider shall indicate the supervisor training course provider approval number all attendance certificates.

~~(g)~~ Each supervisor training course shall allow participants to formally evaluate the course using an evaluation instrument. The provider and the instructor shall review the evaluation outcomes and revise subsequent programs accordingly. The supervisor training course provider shall keep all evaluations for three years and allow the board to review the evaluations on request.

~~(h)~~ A supervisor training course provider must submit updated curricula every six years in order to maintain approval as a provider.

~~(i)~~ The supervisor training course provider is responsible for providing each training participant with a legible attendance certificate when the training ends, verifying the name, date, and place of the training; the provider's name, approval number, and signature; and board contact information.

~~(j)~~ The supervisor training course provider shall maintain attendance records for not fewer than three years.

~~(k)~~ The supervisor training course provider is responsible for assuring that only licensees who attend the complete training and

have demonstrated that they met training objectives receive credit for the training.

~~§781.517. Evaluation of Supervisor Training Course Providers.~~

~~(a)~~ The board may evaluate any approved supervisor training provider at any time to ensure compliance with requirements of this section.

~~(b)~~ Commission staff shall audit approved supervisor training course providers regularly, reviewing the supervisor training provider's documentation regarding compliance with §781.516 of this title (relating to Requirements of Supervisor Training Course Providers), and report audit results to the appropriate board committee.

~~(c)~~ Commission staff shall notify supervisor training providers of the audit results. If the provider is not compliant, the provider shall implement a correction plan to address audit deficiencies, and will submit documentation verifying corrective action to the board within 30 days of the date of the board's notice that corrective action is necessary.

~~(d)~~ The board shall review the approval status of supervisor training providers who are not in compliance and who have not taken corrective action.

~~(e)~~ The board may rescind the approval status of a supervisor training provider.

~~(f)~~ Complaints regarding supervisor training courses offered by approved providers may be submitted in writing to the executive director. Complaints may result in an audit and may be referred to the board for appropriate action.

~~(g)~~ A supervisor training course provider whose approval status has been rescinded by the board may reapply on or after the 91st day following the board action. The provider must document corrective action and demonstrate that the provider's courses will be presented in compliance with §781.516 of this title.

~~(h)~~ In order to get board credit of supervisor training to meet requirements of §781.404 of this title (relating to Recognition as a Board-approved Supervisor and the Supervision Process), a licensee must take that training from a provider approved in good standing with the board.

~~SUBCHAPTER F. COMPLAINTS AND VIOLATIONS:~~

~~§781.601. Purpose.~~ This subchapter sets out grounds for denying an application or disciplining a licensee and procedures for reporting alleged violations of the Act or this chapter.

~~§781.602. Disciplinary Action and Notices:~~

~~(a)~~ The board shall revoke, suspend, suspend on an emergency basis, or deny a

license or specialty recognition, place on probation a person whose license or specialty recognition has been suspended, or reprimand a person with a license or specialty recognition for:

~~(1)~~ violating any provision of the Act or any board rule;

~~(2)~~ failing to cooperate in a complaint investigation filed under this chapter's provisions;

~~(3)~~ failing to comply with any board-ordered action;

~~(4)~~ exhibiting physical or mental incompetency, as determined by the board, to perform social work;

~~(5)~~ providing false or misleading information to the board regarding qualifications for licensure or renewal or in response to a board inquiry;

~~(6)~~ violating any of the grounds described in the Act, §505.451;

~~(7)~~ violating the law or rules of another health or mental health profession resulting in disciplinary action by that profession's regulatory body;

~~(8)~~ violating the law, rules, or policies of a governmental agency related to social work practice resulting in disciplinary action by the governmental agency;

~~(9)~~ violating a board order; or

~~(10)~~ engaging in conduct that discredits or tends to discredit the social work profession.

~~(b)~~ Prior to instituting formal disciplinary proceedings against a licensee, the board shall notify the licensee in writing by certified mail, return receipt requested or registered mail. The notice of violation letter will include the facts or conduct alleged to warrant revocation, suspension, or reprimand and the severity level from the sanction guide. The licensee shall be given the opportunity, as described in the notice, to show compliance with all requirements of the Act and this chapter, including the opportunity for an informal conference. A licensee's opportunity for an informal conference under this subsection shall satisfy the requirement of the APA, §2001.054(c).

~~(e)~~ The licensee or applicant must request, in writing, a formal hearing within 10 days of receiving the notice, or the right to a hearing shall be waived and the license or specialty recognition shall be denied, revoked, suspended, probated, or reprimanded.

~~(d)~~ Receipt of a notice under subsection (b) or (c) of this section is presumed to occur on the tenth day after the notice is mailed to the last address known to the board unless another date is reflected on a United States Postal Service return receipt or other official receipt.

~~(e)~~ The licensee will be considered to have received notice of board disciplinary action if the notice is mailed to the last address provided in writing to the board by the licensee.

~~(f)~~ If a notice is mailed to the last known address of the licensee, and the licensee fails to respond to the notice within 10 days from receipt of the notice, the licensee will be considered to have waived his or her right to a hearing in the matter.

~~(g)~~ If it appears to the board that a person who is not licensed under this chapter is violating this chapter, a rule adopted under this chapter, or another state statute or rule relating to social work practice, the board, after notice and opportunity for a hearing as described in this section, may issue a cease and desist letter prohibiting the person from engaging in the activity. A violation of an order under this subsection constitutes grounds for the board to impose an administrative penalty.

~~§781.603. Complaint Procedures:~~

~~(a)~~ To be an eligible complaint for board action, a complaint must be submitted to the board office on a form prescribed by the board.

~~(b)~~ Allegations not involving violations of §781.205 of this title (relating to sexual misconduct) must be filed within 5 years of the date of termination of professional services or within 5 years of a

minor client's 18th birthday, whichever is later.

~~(e)~~ Upon receipt of an eligible complaint, the commission will send acknowledgement to the complainant.

~~(d)~~ Eligible complaints shall be reviewed by the review team whose members are designated in board policy to determine if the board has jurisdiction over the complaint and to determine the nature of the allegations.

~~(1)~~ Complaints outside of the jurisdiction of the board will be dismissed.

~~(2)~~ Jurisdictional complaints will be reviewed by the team to determine if the complaint states an allegation, which, if true, could constitute a violation of the board's Act or rules.

~~(A)~~ Complaints that do not state a violation of the Act or board rules will be dismissed.

~~(B)~~ Complaints that state a violation of the Act or board rules will be investigated by an investigator assigned by the commission.

~~(3)~~ Complaints under the jurisdiction of another agency will be referred to that agency.

~~(e)~~ Licensees will receive notice of an investigation in writing. Notice to a licensee is effective and service is complete when sent by certified or registered mail to the licensee's address of record at the time of the mailing.

~~(f)~~ Following completion of the investigation, the commission will draft a report. This report will include a recommendation as to whether the investigation has produced sufficient evidence to establish by a preponderance of the evidence there was a violation of the Act or board rules.

~~(g)~~ The review team and counsel for the board will review the complaint's case file, including the investigation report and all evidence, to determine if there is sufficient evidence to demonstrate by a preponderance of the evidence a violation of the Act or board rules occurred.

~~(1)~~ A complaint for which the team and counsel determines the preponderance of the evidence indicates a violation of the Act or board rules occurred will result in the commission issuing a Notice of Violation to the Respondent proposing disciplinary action based on the penalty matrix set by board policy and will be given an opportunity to request an Informal Settlement Conference.

~~(2)~~ A complaint for which staff determines the preponderance of evidence indicates a violation of the Act or board rules did not occur shall be dismissed.

~~(h)~~ At each board meeting, staff shall provide the board with a list of complaints dismissed for lack of jurisdiction or lack of violation since the previous meeting of the board.

~~§781.604. Ethics Committee Meetings and Policy:~~

- ~~(a) The Ethics Committee will meet regularly to review and recommend action on complaints filed against social workers. Additionally, as requested by the respondent, the committee will hold informal conferences to review previous committee actions.~~
- ~~(b) Commission staff will send an agenda and completed reports of complaint investigations to committee members approximately two weeks prior to each meeting. The agenda will list all items to be considered by the committee. Complaints will be listed on the agenda by the assigned complaint tracking number.~~
- ~~(c) Persons who are not committee members may observe committee work unless the committee enters into executive session for legal consultation. Committee members, staff, the licensee against whom the complaint is filed, and the person filing the complaint may participate in discussing a complaint before the committee. The committee chair or committee by vote may impose time limitations on discussion.~~
- ~~(d) Commission staff will report on all completed investigations to committee members, including investigation results and a summary of staff recommendations for disposition.~~

~~(e) The committee will determine a complaint's validity based on the evidence and information. The committee may determine that the evidence does or does not support a finding of a violation of licensing law or rules, or the committee may request additional information for later review. If the committee finds that a social worker has violated licensing law or rules, the committee will consider the established policy guidelines and other relevant factors in recommending disciplinary action.~~

~~(f) All parties to a complaint will be notified of the committee's findings and recommendations.~~

~~§781.605. Informal Conferences:~~

- ~~(a) Informal conferences will be scheduled as needed.~~
- ~~(b) The board's legal counsel or an attorney from the commission's Office of General Counsel shall attend each informal conference.~~

~~§781.606~~420. Licensing of Persons with Criminal Backgrounds.

~~(a) The board may take action against a licensee or deny a license pursuant to Texas Occupations Code, Chapter 53, concerning felony or misdemeanor convictions, or the Act, §505.451(12), concerning felony convictions.~~

~~(b)~~ The following felonies and misdemeanors [directly](#) relate to [the](#)

duties and responsibilities of a licensee:

- ~~(1) practicing social work without a license;~~
- (2) failing to report child abuse or neglect;
- (3) a criminal act involving deceptive business practices;
- (4) the offense of assault or sexual assault;
- (5) the felony offense of fraud; and
- (6) offenses listed in Article 42A.054 of the Code of Criminal Procedure;
- (7) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;
- (8) any criminal violation of the Act;
- (9) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;
- (10) any criminal violation of Chapter 32, Subchapter B (Forgery) of the Penal Code;
- (11) any criminal violation of Sections 32.42 (Deceptive Business Practices), 32.43 (Commercial Bribery), 32.45 (Misapplication of Fiduciary Property), 32.46 (Securing Execution of Document by Deception), 32.50 (Deceptive Preparation and Marketing of Academic Product), 32.51 (Fraudulent Use or Possession of Identifying Information), 32.52 (Fraudulent, Substandard, or Fictitious Degree), or 32.53 (Exploitation of Child, Elderly or Disabled Individual) of the Penal Code;
- (12) any criminal violation of Chapter 37 (Perjury and Other Falsification) of the Penal Code;
- (13) any offense involving the failure to report abuse;
- (14) any criminal violation of Section 38.12 (Barratry and Solicitation of Professional Employment) of the Penal Code;
- (15) any criminal violation involving a federal health care program, including 42 USC Section 1320a-7b (Criminal penalties for acts involving Federal health care programs);
- (16) any state or federal offense not otherwise listed herein, committed by a

licensee while engaged in the practice of social work;

- (17) any attempt, solicitation, or conspiracy to commit an offense listed herein;
- (18) any criminal violation of section 22.041 (abandoning or endangering a child);
- (19) any criminal violation of section 21.15 (invasive visual recording);
- (20) any criminal violation of section 21.08 (indecent exposure);
- (21) any criminal violation of section 22.02 (aggravated assault);
- (22) any criminal violation of section 25.04 (enticing a child);
- (23) any criminal violation of section 43.26 (possession of child pornography);
- (24) any criminal violation of section 20.03 (kidnapping); and
- (25) any criminal violation of chapter 19 (criminal homicide).

~~licensure as a social worker because these criminal offenses indicate a tendency to be unable to perform as a social worker: a violation of the Act; failure to report child abuse or neglect; a misdemeanor involving deceptive business practices; a conviction of assault or sexual assault, and the felony offense of theft. Further, the board will also consider other misdemeanors or felonies as possibly indicating an inability to perform appropriately as a social worker.~~

~~(e) An applicant or licensee with a criminal background may provide or be requested to provide documentation of rehabilitation for the board's consideration.~~

~~(d) A person may submit documentation of rehabilitation, including court records and a~~

~~summary of the arresting event and the conditions which led to the arrest. Further, a person may submit documents related to a sentence imposed by the court, a sentence completed, or probation or parole successfully completed. It is also appropriate to submit information attesting to subsequent good behavior, letters from employers or others familiar with the person's accomplishments after being convicted, and any other information related to the applicant's qualifications for licensure.~~

~~(e) The licensee may be referred to the appropriate board committee for review and determination of eligibility or monitoring requirements. Licensees referred to the board are afforded due process under the APA.~~

~~§781.607. Suspension, Revocation, or Non-renewal.~~

~~(a) If the board suspends a license or specialty recognition, the suspension shall remain in effect for the period of time stated in the order or until the board determines that the reason for the suspension no longer exists.~~

~~(b) While on suspension, the licensee shall comply with this chapter's renewal requirements, including paying fees and completing continuing education. However, the suspension remains~~

~~in effect pursuant to subsection (a) of this section.~~

~~(c) Upon revocation, suspension or non-renewal of a license, a licensee shall return his or her license to the board.~~

~~(d) The board may refuse to renew the license of a person who fails to pay an administrative penalty imposed in accordance with the Act unless the enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.~~

~~§781.608. Informal Disposition.~~

~~(a) If a licensee agrees to the disciplinary action proposed by the Ethics Committee or recommended through an informal conference, the board office or board legal counsel shall prepare an agreed order, including agreed findings of fact and conclusions of law, and forward it to the licensee or applicant. An uncontested Notice of Violation executed and signed by the respondent may serve as the basis for a board order.~~

~~(1) The licensee or applicant shall execute the order and return the signed order to the board office within 10 days of receiving the order. If the licensee or applicant fails to return the signed order within 10 days, the inaction shall constitute rejection of the recommendations.~~

~~(2)~~ If the licensee or applicant signs and accepts the recommendations, the agreed order shall be submitted to the entire board for its approval. Placing the agreed order on the board agenda constitutes only a recommendation for board approval.

~~(3)~~ If the licensee or applicant rejects the proposed recommendations, the matter shall be referred to the executive director for appropriate action.

~~(b)~~ The board shall notify the licensee or applicant of the date, time, and place of the board meeting at which the proposed agreed order will be considered. Attendance by the licensee or applicant is voluntary.

~~(c)~~ Upon an affirmative majority vote, the board shall enter an agreed order approving the accepted recommendations. The board may not change the terms of a proposed order but may only approve or disapprove an agreed order unless the licensee or applicant is present at the board meeting and agrees to other terms proposed by the board.

~~(d)~~ If the board does not approve a proposed agreed order, the licensee or applicant and the complainant shall be so informed. The matter shall be referred to the executive director for other appropriate action.

~~(e)~~ A proposed agreed order is not effective until the full board has approved the agreed order.

The order shall then be effective in accordance with the APA.

~~(f)~~ The board may order a license holder to pay the consumer a refund as an informal conference agreement provides, instead of or in addition to imposing an administrative penalty. The amount of refund ordered in an informal conference agreement may not exceed the amount the consumer paid to the license holder for a service regulated by the Act and this title. The board may not require payment of other damages or estimate harm in a refund order.

~~§781.609. Monitoring of Licensees.~~

~~(a)~~ The executive director shall maintain a disciplinary action tracking system.

~~(b)~~ Each licensee who has had disciplinary action taken against his or her license or specialty recognition shall be required to submit regularly scheduled reports.

~~(c)~~ The executive director shall review these monitoring reports resulting from formal disciplinary action and notify the Ethics Committee if the licensee is not meeting the disciplinary requirements. The Ethics Committee may consider more severe disciplinary proceedings if the licensee does not comply.

~~(d)~~ Regardless of whether the board has received a formal complaint, the board may require

~~monitoring of a licensee who may pose a potential threat to public health or safety because of drug or alcohol use, mental or physical health concerns, criminal activity or allegations, and other issues which may adversely affect the public. The board may require a licensee on monitoring status to comply with conditions the board specifies. Though such monitoring is not considered a formal disciplinary action, the licensee must comply fully with the board's order or face possible formal disciplinary action levied by the board.~~

~~(e) Participants of the AMEC program in accordance with §781.411 of this title (relating to Temporary License) shall be considered to be on monitoring status until released by the board and issued a regular license.~~

~~§781.610. Due Process Following Violation of an Order.~~

~~(a) A licensee accused of violating the terms of an Order is not entitled to a formal hearing on the matter, but is entitled to a degree of due process, as follows:~~

~~(b) When it appears that the licensee has violated a term of the Order, the commission will send a Notice of Violation of the Order to the licensee. The Notice shall include:~~

~~(1) a brief statement of the acts or omissions believed to constitute a violation, including information sufficient to apprise~~

~~the licensee about the date and nature of the violation;~~

~~(2) a statement that, within 10 days of receiving the Notice, the licensee must respond in writing to explain why the licensee believes he or she did not violate the Order, or if such violations did occur, why the disciplinary action proposed in the Order should not be imposed; and~~

~~(3) a statement in large bold type that, if the licensee fails to respond, the disciplinary action described in the Order will be imposed, and further that additional disciplinary actions may be taken if the conduct constituting the violation of the Order also violates a board rule or statute: "FAILURE TO RESPOND. YOUR FAILURE TO RESPOND, WILL BE CONSIDERED A WAIVER OF YOUR RIGHT TO A HEARING. THE FACTUAL ALLEGATIONS IN THIS NOTICE WILL BE DEEMED ADMITTED AS TRUE AND THE PROPOSED DISCIPLINARY ACTION WILL BE IMPOSED BY DEFAULT. ADDITIONAL DISCIPLINARY ACTIONS MAY BE TAKEN."~~

~~(c) When the commission receives the licensee's written response, the executive director and board chair will review the response and decide whether there are sufficient grounds to find that the Order was violated and, if so, whether the disciplinary action provided in the Order should be imposed.~~

~~(d)~~ The executive director and the board chair shall write and submit their decision to the board for final action.

~~(e)~~ A decision to impose or to forego imposing disciplinary action under the terms of the Order does not preclude the board from initiating disciplinary action independent of the Order if the alleged conduct may constitute a violation of statute or rules.

~~SUBCHAPTER G. FORMAL HEARINGS.~~

~~§781.701. Purpose.~~ These rules, which cover the hearing procedures and practices available to persons or parties who request formal board hearings, supplement the contested case provisions outlined in the Texas Government Code, Chapter 2001, Administrative Procedure Act (APA), and the hearing procedures of the State Office of Administrative Hearings (Texas Government Code, Chapter 2003, and Rules of Procedure, 1 Texas Administrative Code, Chapter 155).

~~§781.702. Notice.~~

~~(a)~~ Proper notice of contested case proceedings before the State Office of Administrative Hearings, means notice sufficient to meet the provisions of the Texas Government Code, Chapter 2001 and the State Office of Administrative Hearings, Rules of Procedure, 1 Texas Administrative Code, Chapter 155.

~~(b)~~ For purposes of informal conferences, proper notice shall include the name and style of the case, the date, time, and place of the informal conference, and a short statement of the purpose of the conference.

~~(c)~~ The following statement shall be attached to the notice of hearing or notice of informal conference, in bold, capital letters of at least 10 point type: "FAILURE TO APPEAR. YOUR FAILURE TO APPEAR, IN PERSON OR BY REPRESENTATIVE, ON THE ABOVE DATE, TIME, AND PLACE, WILL BE CONSIDERED A WAIVER OF YOUR RIGHT TO A HEARING. THE FACTUAL ALLEGATIONS IN THIS NOTICE WILL BE DEEMED ADMITTED AS TRUE AND THE PROPOSED DISCIPLINARY ACTION WILL BE GRANTED BY DEFAULT."

~~§781.703. Default.~~

~~(a)~~ In this section, "default" means the respondent's failure to appear in person, by legal representative, or by telephone on the day and at the time set for hearing in a contested case or informal conference, or in accordance with the notice of hearing or notice of informal conference.

~~(b)~~ Remedies available upon default in a contested case before the State Office of Administrative Hearings (SOAH). The Administrative Law Judge (ALJ) shall proceed in the party's absence and such failure to

~~appear shall entitle the commission to seek informal disposition as provided by the Texas Government Code, Chapter 2001. The ALJ shall grant any motion by the commission to remove the case from the contested hearing docket and allow for informal disposition by the board.~~

~~(c) Remedies available upon default in an informal conference. The board may proceed to make such informal disposition of the case as it deems proper, as if no request for hearing had been received.~~

~~(d) The board may enter a default judgment by issuing an order against the defaulting party in which the factual allegations in the notice of violation or notice of hearing are deemed admitted as true without the requirement of submitting additional proof, upon the offer of proof that proper notice was provided to the defaulting party.~~

~~(e) Motion to set aside and reopen. The respondent's timely motion to set aside the default order and reopen the record may be granted if the respondent establishes that his/her failure to attend the hearing, rather than being intentional or the result of conscious indifference, was in fact due to mistake, accident, or circumstances beyond the respondent's control.~~

~~(1) A motion to set aside the default order and reopen the~~

~~record shall be filed with the board prior to the board's order becoming final, pursuant to the provisions of the Texas Government Code.~~

~~(2) A motion to set aside the default order and reopen the record is not a motion for rehearing and is not considered a substitute for a rehearing motion. Filing a motion to set aside the default order and reopen has no effect on either the statutory time periods for filing a motion for rehearing, or on the time frame for ruling on a rehearing motion, as provided in the Texas Government Code.~~

~~(f) This subsection also applies to cases where proof exists that notice of hearing was served at the defaulting party's last known address as shown on the commission's records, with no evidence that the defaulting party or the defaulting party's agent actually received notice. In that situation, the default procedures described in subsection (c) of this section may be used.~~

~~§781.704. Action after Hearing.~~

~~(a) Reopening a hearing for new evidence. If new evidence is offered which was unobtainable or unavailable at the time of the hearing, and if the board deems that this evidence is necessary to make a fair, proper determination of the case, the board may reopen a hearing, including the new evidence as part of the record. The reopened hearing will~~

~~be limited to only such new evidence. All previously designated parties will be served official notice of the new hearing.~~

~~(b) Final orders or decisions. The board or its designee will render the board's final order or decision, in writing. The decision will state the findings of fact and conclusions required by law, either in the body of the order, by attachment, or by reference to an ALJ's proposal for decision. All final orders will be signed by the board chair, and his/her designee, unless otherwise permitted by statute or by these actions.~~

~~(c) Motion for rehearing. A motion for rehearing shall be governed by the APA or other pertinent statute and shall be filed with the board.~~

~~(d) Appeals. All appeals from final board orders or decisions shall be governed by the APA or other pertinent statute and shall be addressed to the board.~~

SUBCHAPTER HD. Schedule of SANCTIONS-GUIDELINES.

§781.801. Purpose. The schedule of sanctions is adopted by rule pursuant to the Act, §505.2542015(2). ~~The schedule is intended to be used by the Ethics Committee as a guide in assessing sanctions for violations of the Act or this chapter. The schedule is also intended to serve as a guide to administrative law judges, and as a written statement of applicable rules or policies of the board pursuant to the Government~~

~~Code. The failure of an administrative law judge (ALJ) to follow the schedule may serve as a basis to vacate or modify an order pursuant to the Government Code. No two disciplinary cases are the same. This schedule is not intended as a substitute for thoughtful consideration of each individual disciplinary matter.~~

~~§781.802. Relevant Factors:~~

~~(a) When a licensee has violated the Act or this chapter, three general factors combine to determine the appropriate sanction: the licensee's degree of culpability; the harm caused or posed; and appropriate deterrence.~~

~~(b) The board and ALJ may consider special factors, but the licensee is responsible for bringing these exonerating factors to light for the board or ALJ to consider.~~

~~(1) The seriousness of the violation can be a special factor. The board or ALJ may consider the nature and extent of harm caused or risk posed to the public health, safety, or welfare. How frequently the violation occurred and over what time period are also important factors.~~

~~(2) The board and ALJ can also examine the nature of the violation, as determined by the relationship between the licensee and the person harmed or exposed to harm. The vulnerability of the person~~

~~harmful or exposed to harm is an important factor. Determining the licensee's culpability is affected by whether the violation was intentional or premeditated; reflected the licensee's blatant disregard or gross neglect; resulted from error or inadvertence; and/or reflects the licensee's lack of character, integrity, trustworthiness, or honesty.~~

~~(3) Another special set of factors deal with the licensee's personal accountability, including the licensee's capacity to admit wrong-doing and accept responsibility; whether the licensee shows an appropriate degree of remorse or concern; what efforts the licensee has taken to ameliorate harm or make restitution; how the licensee has instituted a plan to ensure that future violations do not occur; and how well the licensee cooperated with any investigations and requests for information.~~

~~(4) How to prevent violations is another set of factors worthy of consideration. Determining the sanction(s) required to deter the licensee from engaging in similar violations and to ensure that the licensee abides by the other provisions of the Act or this chapter; and sanctions which can effectively deter other licensees from making similar violations are considerations that shed light on the appropriate sanction(s).~~

~~(5) Other miscellaneous factors which affect decisions on sanctions include the licensee's professional experience at time of violation; whether the licensee has previously or subsequently violated the law and rules; how the licensee has conducted himself or herself, particularly in the work setting, prior to and following the violation; any character references; and any other factors justice may require.~~

§781.803. Severity Levels and Sanction Guide. The following are severity levels ~~and sanction guides are based on the relevant factors in §781.802 of this title (relating to Relevant Factors) for the schedule of sanctions:~~

(1) Level One--Revocation of license. These violations evidence the licensee's intentional or gross misconduct, cause or pose a high degree of harm to the public, and/or require severe punishment to deter the licensee, or other licensees. The fact that a license is ordered revoked does not necessarily mean the licensee can never regain licensure. The **board Council** may also impose an administrative penalty of not less than \$250 or more than \$5,000 for each Level One violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a financial penalty.

(2) Level Two--Extended suspension of license. These violations involve less misconduct,

harm, or need for deterrence than Level One violations, but require termination of licensure for a period of not less than one year. The ~~board~~-Council may also impose an administrative penalty of not less than \$250 or more than \$4,000 for each Level Two violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(3) Level Three--Moderate suspension of license. These violations involve less misconduct, harm, or need for deterrence than Level Two violations, but require termination of licensure for some period of time. The ~~board~~-Council may also impose an administrative penalty of not less than \$250 or more than \$3,000 for each Level Three violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(4) Level Four--Probated suspension of license. These violations do not involve enough harm, misconduct, or need for deterrence to warrant termination of licensure, yet are severe enough to warrant monitoring of the licensee to ensure future compliance. Possible probationary terms are set out as in §781.806 of this title (relating to Probation) and may be ordered as appropriate. The ~~board~~-Council may also impose an administrative penalty of not less than \$250 or more than \$2,000

for each Level Four violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

(5) Level Five--Reprimand. These violations involve minor misconduct not directly involving the health, safety or welfare of the particular member of the public at issue. The ~~board~~-Council may also impose an administrative penalty of not less than \$250 or more than \$1,000 for each Level Five violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

§781.804. Other Disciplinary Actions.

(a) Complaints may be resolved by issuance of a warning letter or a conditional letter of agreement, which does not involve a formal disciplinary action.

(1) Warning letters informing licensees of their duties under the Act or this chapter, and whether the conduct or omission complained of may appear to violate such duties.

(2) A conditional letter of agreement informs the licensee of the licensee's duties under the Act or this chapter, whether the conduct or omission complained of may appear to violate such duties, and creating Council ordered conditions for the resolution of the issues in the complaint. Staff may issue the conditional letter of agreement to the licensee, a signature by the licensee is required, and the letter will specify the disposition of the complaint. If the licensee fails to comply with all the Council ordered

conditions in the specified time frame outlined in the conditional letter agreement, staff will open a new complaint arising out of non-compliance with the conditional letter agreement and/or the underlying conduct.

~~The Ethics Committee or executive director, as appropriate, may resolve pending complaints by issuing formal advisory letters to inform licensees of their duties under the Act or this chapter, and whether the conduct or omission relevant to the complaint appears to violate such duties. Advisory letters may be introduced as evidence in any subsequent disciplinary action involving the licensee's acts or omissions after the licensee receives the advisory letters. The Ethics Committee or executive director, as appropriate, may also issue informal reminders to licensees regarding other licensing matters. The licensee is not entitled to a hearing on the matters addressed in the formal advisory letter or informal reminders, but may write a response to be included with such letters in the social worker's licensing records.~~

\$781.805 Schedule of Sanctions

The following standard sanctions shall apply to violations of the Act and these rules.

Insert Figure 22 TAC \$781.805.

~~**\$781.805. State Office of Administrative Hearings.** In cases requiring a hearing, the Ethics Committee, through the~~

~~executive director, will issue a notice of violation letter to the licensee, and state the severity level and the recommended sanction, which will reflect the Ethics Committee's judgment based on the information available at that time. The evidence presented at a hearing could indicate a greater or lesser sanction.~~

~~**\$781.806. Probation.** If probation is ordered or agreed to, the following terms may be required:~~

~~(1) General conditions of probation:~~

~~(A) The licensee shall obey all federal, state and local laws and rules governing social work practice in this state.~~

~~(B) Under penalty of perjury, the licensee shall submit periodic reports as the board requests on forms provided by the board, stating whether the licensee has complied with all conditions of probation.~~

~~(C) The licensee shall comply with the board's probation monitoring program.~~

~~(D) The licensee shall appear in person for interviews with the board or its designee at various intervals and with reasonable notice.~~

~~(E) If the licensee leaves this state to reside or to practice outside the state, the licensee must notify the board in writing of the dates of departure and~~

return. Periods of practice outside this state will not count toward the time of this probationary period. The social work licensing authorities of the jurisdiction to which the licensee is moving or has moved must be promptly notified of the licensee's probationary status in this state. The probationary period will resume when the licensee returns to the state to reside or practice.

~~(F)~~ If the licensee violates probation in any respect, the board, after giving formal notice and the opportunity to be heard, may revoke the licensee's license and specialty recognition or take other appropriate disciplinary action. The period of probation shall be extended until the matter is final.

~~(G)~~ The licensee shall promptly notify in writing all settings in which the licensee practices social work of his or her probationary status.

~~(H)~~ While on probation, the licensee shall not act as a supervisor or gain any hours of supervised practice required for any board-issued license.

~~(I)~~ The licensee is responsible for paying the costs of complying with conditions of probation.

~~(J)~~ The licensee shall comply with the renewal requirements in the Act and the board rules.

~~(K)~~ A licensee on probation shall not practice social work except

under the conditions described in the probation order.

~~(L)~~ A licensee who is required to be supervised as a condition of initial licensure, continued licensure, or disciplinary action must:

~~(i)~~ submit one supervisory plan for each practice location to the board for approval by the board or executive director/designee within 30 days of initiating supervision;

~~(ii)~~ submit a current job description from the agency in which the social worker is employed with a verification of authenticity from the agency director or his or her designee on agency letterhead or submit a copy of the contract or appointment under which the licensee intends to work, along with a statement from the potential supervisor that the supervisor has reviewed the contract and is qualified to supervise the licensee in the setting;

~~(iii)~~ ensure that the supervisor submits reports to the board on a schedule determined by the board. In each report, the supervisor must address the supervisee's performance, how closely the supervisee adheres to statutes and rules, any special circumstances that led to the imposition of supervision, and recommend whether the supervisee should continue licensure. If the

supervisor does not recommend the supervisee for continued licensure, the supervisor must provide specific reasons for not recommending the supervisee. The board may consider the supervisor's reservations as it evaluates the supervision verification the supervisee submits; and

~~(iv)~~ notify the board immediately if there is a disruption in the supervisory relationship or change in practice location and submit a new supervisory plan within 30 days of the break or change in practice location.

~~(2)~~ Special Conditions. At the board's discretion, one or more special conditions of probation may appear in the board's disciplinary order that places a licensee on probation. Those special conditions and example wording are described in the following subparagraphs of this paragraph:

~~(A)~~ Actual Suspension. As part of probation, the license is suspended for a period of (example: one) year beginning the effective date of this order.

~~(B)~~ Drug/Medication Use. The licensee shall abstain completely from using or possessing controlled substances and dangerous drugs as defined by law, or any drugs requiring a prescription except those medications which a licensed

physician lawfully prescribes for a bona fide illness or condition.

~~(C)~~ Alcohol. The licensee shall abstain completely from using alcoholic beverages.

~~(D)~~ Body Fluid or Hair Follicle Testing. The licensee shall immediately submit to appropriate testing, at the licensee's cost, upon the board's written request or order.

~~(E)~~ Rehabilitation Program. Within (example: 30) days of the effective date of the order, the licensee shall submit to the board for its prior approval a rehabilitation program in which the licensee shall participate at least weekly for at least (example: 50) weeks of the calendar year for the duration of probation. In the periodic reports to the board, the licensee shall document continuing participation in this program, including the dates of the weekly meetings attended and the address of each meeting. At the end of the required period, the rehabilitation program director shall document to the board that the licensee has completed the program and has made arrangements for appropriate follow-up.

~~(F)~~ Community Service. Within (example: 60) days of the effective date of the order, the licensee shall submit to the board for its prior approval a community service program in which the licensee shall provide

~~free regular social work services to a community or charitable facility or agency for at least (example: 20) hours a month for the first (example: 24) months of probation.~~

~~**(G) Medical Evaluation**~~

~~Treatment. Within (example: 30) days of the effective date of the order, and periodically thereafter as the board or its designee may require, the licensee shall undergo a medical evaluation by a licensed physician who shall furnish a medical report to the board or its designee. If the board or its designee requires the licensee to undergo medical treatment, the licensee shall, within (example: 30) days of the requirement notice, submit to the board for its prior approval the name and qualifications of a physician of the licensee's choice. Upon the board's approval of the treating physician, the licensee shall undergo and continue medical treatment until further notice from the board. The licensee shall have the treating physician submit periodic reports to the board as the board directs. In cases where the evidence demonstrates that medical illness or disability was a contributing cause of the violations, the licensee shall not engage in the practice of social work until the board notifies the licensee that the board has determined that the licensee is medically fit to practice safely.~~

~~**(H)**~~

~~Psychosocial/Psychological/Psychiatric Evaluation. Within (example: 30) days of the effective date of the decision, and periodically thereafter as required by the board or its designee, the licensee shall undergo evaluation by a licensed professional (social worker, psychologist, or psychiatrist) selected by the board. The evaluator shall furnish a written report to the board or its designee regarding the licensee's judgment and ability to function independently and safely as a social worker and any other information the board may require. The licensee shall pay all evaluation costs. The licensee shall execute a release of information authorizing the evaluator to release all information to the board. The board will treat the evaluation as confidential. If the evidence demonstrates that physical illness or mental illness was a contributing cause of the violations, the licensee shall not engage in the practice of social work until the board determines that the licensee is medically fit to practice safely and so notifies the licensee.~~

~~**(I) Ethics Course.**~~

~~Within (example: 60) days of the effective date of the order, the licensee shall select and submit to the board or its designee for prior approval a course in (example: ethics), which the licensee shall take and~~

successfully complete as directed by the board.

~~(J) Supervision of the Licensee's Practice. Within (example: 30) days of the effective date of this order, the licensee shall submit to the board for its prior approval the name and qualifications of three proposed supervisors. Each proposed supervisor shall be licensed in good standing and be a board-approved supervisor with expertise in the licensee's field of practice. The supervisor must review and maintain a copy of the board order and must ensure that the supervisory content relates to the licensee's rehabilitation and fitness for practice. The supervisor shall submit to the board quarterly written reports (or other time periods the board may specify), verifying that the supervisor and supervisee have met together in the same geographical location to engage in required supervision of at least one hour per week (or other time periods the board may specify), in individual face-to-face meetings, and including an evaluation of the licensee's performance. The licensee will bear all supervision costs and is responsible for assuring that the required reports are filed in a timely fashion. The licensee shall give the supervisor access to the licensee's fiscal and client records. The supervisor shall be independent, with no current or prior business, professional or~~

~~personal relationship with the licensee. The licensee shall not practice until the board has approved the designated supervisor and so notified the licensee. If the supervisor ceases supervision, the licensee shall not practice until the board has approved a new supervisor. The supervisor and licensee shall inform the board in writing within 10 business days of supervision termination, or any substantive change to the supervision plan; these changes are subject to the board's approval. Board-ordered supervision shall comply with relevant requirements of §781.404 of this title (relating to Recognition as a Board-approved Supervisor and the Supervision Process) as well as all other laws and rules.~~

~~(K) Psychotherapy. Within (example: 60) days of the effective date of the order, the licensee shall submit to the board for its prior approval the name and qualifications of one or more therapists of the licensee's choice. The therapist shall possess a valid license and shall have had no current or prior business, professional or personal relationship with the licensee. Upon the board's approval, the licensee shall undergo and continue treatment, for which the licensee pays all costs, until the board determines that no further psychotherapy is necessary. The licensee shall execute a release of information~~

authorizing the therapist to divulge information to the board, and will have the treating psychotherapist submit periodic reports as the board requires. If the therapist believes the licensee cannot safely continue to render services, the therapists will notify the board immediately.

~~(L)~~ Education. The licensee shall successfully complete any remedial education the board requires.

~~(M)~~ Take and Pass Licensure Examinations. The licensee shall take and pass the licensure examination currently required of new applicants for the license possessed by the licensee. The licensee shall pay the established examination fee.

~~(N)~~ Peer Assistance Program. Within (example: 30) days of the effective date of the order, the licensee shall participate in a board-approved Peer Assistance Program in which the licensee shall participate at least (example: weekly) for at least (example: 50) weeks of the calendar year for the duration of probation. In the periodic reports to the board, the licensee shall document continuing participation in this program, including the dates of the meetings attended and the address of each meeting. The program shall also submit periodic progress reports and a final disposition report concerning whether the licensee

completed the program and has made arrangements for appropriate follow-up. If a licensee does not complete the program, the board or board committee will determine an appropriate sanction.

~~(O)~~ Other Conditions. The board may order other terms of probation as may be appropriate.

~~§781.807. Release from Probation.~~

~~(a)~~ If the executive director believes that a licensee has satisfied the terms of probation, the executive director shall report to the Ethics Committee the status of the licensee's probation.

~~(b)~~ If the executive director does not believe that the licensee has successfully completed probation, the executive director shall so notify the licensee and shall refer the matter to the Ethics Committee for review and recommendations. The licensee shall continue supervision and all requirements set forth in the board order, including periodic reports, until the Ethics Committee reviews and disposes of the case.

~~§781.808. Peer Assistance Program.~~

~~(a)~~ The board shall establish criteria for a peer assistance program to help impaired professionals. Any peer assistance program wishing to serve licensees will submit evidence to

the board that the program meets board criteria. The board may approve a peer assistance program, and may rescind such approval.

~~(b)~~ The board has the authority to request that a licensee be evaluated by an appropriate substance abuse or mental health provider, and reserves the right to choose the provider. The licensee will pay the costs of such evaluation directly to the provider. The board may use the evaluation results in determining the licensee's fitness to practice.

~~(c)~~ The board will recognize a board-approved peer assistance program to serve an impaired licensee if the board or a board committee approves such intervention or makes such intervention a condition of board-ordered sanction, as a condition of continued licensure, or if the licensee acknowledges impairment and requests peer assistance services.

~~(d)~~ The board does not waive authority to conduct ethics investigations or impose sanctions against a licensee who is in a peer assistance program.

~~(e)~~ Any licensee who enters evaluation, treatment, or monitoring by a board-approved peer assistance program is obligated to pay the costs incurred by this intervention directly to the peer assistance program. Neither the board nor the commission will collect such

costs from the licensee, nor serve as an intermediary for such payments.

~~(f)~~ The board-approved peer assistance program shall submit reports of the licensee's progress in a time frame that the board specifies. The program shall also submit a final disposition report concerning whether the licensee completed the program. If the licensee does not complete the program, the board or board committee will determine an appropriate sanction.

~~(g)~~ A licensee who knows or suspects that another licensee under the board's jurisdiction is impaired by alcohol, chemical, or mental illness is required to report this information to the board within 30 days for investigation.

DISCIPLINARY ACTIONS (reported to the National Practitioner Databank and posted on the board's website)

Level 5: Reprimand (Administrative Penalty: not less than \$250; no more than \$1,000 per day)

- _____ Failure to inform consumer of all required items, provide a written explanation of treatment and charges [§§781.201(a)(6); 781.203(7); 781.204(a); 781.209(5); 781.213(b); and 781.215(a)]
- _____ Failure to discourage others from making exaggerated or false claims [§781.204(i)]
- _____ Failure to protect individual from harm resulting from individual or group setting [§781.204(o)]
- _____ Failure to inform client about testing as part of treatment [§781.207(a)]
- _____ Appropriate, reproduce, or modify published tests or parts thereof without publisher's permission [§781.207(b)]
- _____ Failure to report name or address change to the board within 30 days of change [§§781.212(c); 781.416(a)(1)]
- _____ Failure to inform client of board name, address, and telephone number for purposes of filing a complaint [§781.214(a)]
- _____ Failure to set and maintain proper supervisor-supervisee relationship [§781.404(b)(11)(E) and (L)]
- _____ Failure to ensure supervisee knows of, and complies with, all board rules [§781.404(b)(11)(K)]
- _____ Failure to develop and implement written supervision remediation plan [§781.404(b)(12)(G)]
- _____ Failure to keep accurate records, keep records for appropriate retention period [§§781.204(f); 781.209(1) and (4)]
- _____ Failure to assess proper fee(s), maintain accurate billing records [§§781.204(g); 781.210(d)]
- _____ Failure to establish a plan for custody of records when professional services cease [§781.209(3)]
- _____ Failure to maintain written release of information in permanent record, review and update [§781.211(e)]
- _____ Failure to maintain and timely submit accurate supervised experience records [§781.404(b)(11)(A)]
- _____ Make misleading, exaggerated, or false claims [§§781.201(a)(2); 781.204(h); 781.206(a) and (b); 781.216(a), (c), and (d)]
- _____ Failure to base all services on an assessment, evaluation or diagnosis of the client; evaluate client's condition without personally interviewing client or disclosing that a personal interview has not been completed [§§781.201(a)(5); 781.203(3)]
- _____ Failure to maintain client confidentiality except when disclosure is prescribed by statute or board rules [§§781.201(a)(7); 781.209(6); 781.211(b) and (g)]
- _____ Failure to set and maintain professional boundaries and avoid dual relationships [§§781.201(a)(8); 781.204(e), (l), and (q)]
- _____ Failure to evaluate a client's progress on a continuing basis to guide service delivery and make use of supervision and consultation as indicated by client's needs [§§781.201(a)(12)]
- _____ Failure to inform other provider when providing concurrent therapy [§781.203(1)]
- _____ Failure to obtain informed consent (or court order) with all related items [§781.203(9)]
- _____ Engage in activities to personal needs or for personal gain; promotion of personal

- _____ or business activities that are unrelated to the current professional relationship [§781.204(d) and (p)]
- _____ Accept from or give gift to a client with a value in excess of \$25.00 [§781.204(m)]
- _____ Failure to comply with Texas Health and Safety Code concerning access to mental health records; release information only with a written permission signed by client or client guardian [§§781.211(c) and (d)]
- _____ Failure to report alleged violation to the board (except sexual misconduct) [§781.212(b)]
- _____ Failure to cooperate with board investigation and provide timely response to request for information [§§781.212(f); 781.602(a)(2)]
- _____ Display a license certificate or card which has been reproduced, expired, suspended, or revoked [§781.215(c)]
- _____ Failure to assume responsibility for human subject's emotional, physical, and social welfare when conducting research [§§781.217(a)]
- _____ Failure to provide written information to parties in child custody or adoption evaluations [§781.222(h)(1) and (2)]
- _____ Charge or collect a fee or anything of value from employee or contract employee for supervision [§781.404(b)(11)(C)]
- _____ Provide supervision to a family member [§781.404(b)(11)(F)]
- _____ Failure to develop and update supervision plan [§781.404(b)(11)(P)]
- _____ Failure to submit written report to the board within 30 days of arrest, filing of criminal case, deferred adjudication, criminal conviction, settlement or judgment in civil suit, or complaint, investigation, or action by governmental agency or other licensing or certifying body [§781.416(a)(2)-(5)]
- _____ Failure to terminate non-beneficial counseling relationship; transfer client to appropriate care [§§781.201(a)(13); 781.203(2)]

Level 4: Probated Suspension (Admin Penalty: not less than \$250; no more than \$2,000 per day)

- _____ Refuse to serve a client based solely on basis of discrimination [§781.201(a)(1)]
- _____ Failure to practice within scope of competency and accepted professional standards as appropriate to client's needs [§§781.201(a)(3), 781.202(d), (e), and (g)-(i); 781.203(4); 781.221(ff); 781.222(i)]
- _____ Exploit a position of trust with client or former client [§781.201(a)(11)]
- _____ Failure to assume responsibility for clients during bartering of services [§781.203(8)]
- _____ Enter into a business relationship with a client [§781.204(c)]
- _____ Failure to provide services in the context of a professional relationship [§781.204(j)]
- _____ Borrow or lend money or items of value to clients or relatives of clients [§§781.204(n)]
- _____ Failure to report alleged sexual misconduct to the board [§781.205(g)(1)-(4)]
- _____ Failure to administer or interpret test only with training and experience [§781.207(c)]
- _____ Failure to retain and dispose of client records in ways that maintain confidentiality [§781.209(2)]
- _____ Knowingly or flagrantly overcharge; bill for improper, unreasonable or unnecessary services [§781.210(c) and (e)]
- _____ Failure to report information concerning abuse or neglect of minors, elderly, or disabled; report exploitation by a mental health services provider [§781.211(f)(1-4)]

- _____ Failure to ensure subject's identity and confidentiality when obtaining data from a professional relationship for purposes of research [§781.217(b)]
- _____ Provide therapy and any other type of service, including but not limited to a child custody evaluation or parenting facilitation, in the same case [§§781.220(e); 781.221(d); 781.222(f)]
- _____ Failure to supervise only supervisees within scope of competency [§781.404(b)(1)]
- _____ Failure to clearly indicating services, licensure category, and that supervisee is under supervision on billing documentation [§781.404(b)(11)(H)]
- _____ Failure to address issues outlined in board ordered supervision [§781.404(b)(13)(B)]

Level 3: Suspension (less than a year, Admin Penalty: not less than \$250; no more than \$3,000 per day)

- _____ Practice while impaired by alcohol or drugs or use any illegal drug; promote, encourage, or concur in the illegal use or possession of alcohol or drugs [§§781.201(a)(10) and 781.208]
- _____ Offer to pay or agree to accept any remuneration for securing or soliciting clients or patronage [§§781.204(b); 781.210(a) and (b)]
- _____ Provide expert opinion or recommendation without conducting appropriate child custody evaluation [§781.222(g)]
- _____ Failure to maintain qualifications of supervisory status while providing supervision [§781.404(b)(10)]
- _____ Provide supervision without having met all requirements for current, valid board-approved supervisor status [§781.404(b)(11)(J)]
- _____ Failure to inform all supervisees of termination of supervisor status and help them to find alternate supervision [§781.404(b)(11)(M)]

Level 2: Suspension (one year or more, Admin Penalty: not less than \$250; no more than \$4,000 per day)

- _____ Alter license certificate [§781.215(b)]

Level 1: Revocation (Admin Penalty: not less than \$250; no more than \$5,000 per day)

- _____ Engage in sexual misconduct; therapeutic deception [§§781.201(a)(9); 781.205(b) and (c)]
- _____ Aid or abet unlicensed practice [§781.203(5)]
- _____ Participate in falsifying documents submitted to the board [§781.203(6)]
- _____ Continue to supervise or fail to refund all supervisory fees paid after termination or expiration of supervisor status [§781.404(b)(11)(N) and (O)]
- _____ Failure to comply with board order [§781.602(a)(3), and (9)]

SUBCHAPTER A. GENERAL PROVISIONS~~[INTRODUCTION]~~.

§801.2 Definitions

The following words and terms when used in this chapter, have the following meanings unless the context indicates otherwise.

(1) Accredited institutions or programs--An institution of higher education accredited by a regionally accrediting agency recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education.

(2) (No change.)

~~[(3) Administrative law judge (ALJ)--An individual who presides at an administrative hearing held under Texas Government Code, Chapter 2001 (relating to Administrative Procedure), as defined in Texas Government Code, Chapter 2003 (relating to State Office of Administrative Hearings).]~~

~~[(4) APA--The Administrative Procedure Act, Texas Government Code, Chapter 2001.]~~

(3)~~[(5)]~~ Board--The Texas State Board of Examiners of Marriage and Family Therapists.

(4)~~[(6)]~~ Client--An individual, family, couple, group, or organization who receives or has received services from a person identified as a marriage and family therapist who is either licensed by the council~~[board]~~ or unlicensed.

~~[(7) Completed application--The official marriage and family therapy application form, fees and all supporting documentation which meets the criteria in §801.73 of this title (relating to Required Application Materials).]~~

~~[(8) Contested case--A proceeding in accordance with the APA and this chapter, including rule enforcement and licensing in which the legal rights, duties, or privileges of a party are to be determined by the board after an opportunity for an adjudicative hearing.]~~

(5) Council--The Texas Behavioral Health Executive Council.

(6) Council Act--Texas Occupations Code, Chapter 507, concerning the Texas Behavioral Health Executive Council.

(7) Council rules--22 Texas Administrative Code, Chapters 801 and 881 to 885.

~~[(9) Disciplinary action--A sanction imposed by board order, such as denial, reprimand, probated suspension, suspension, or revocation of a license or administrative penalty. A disciplinary action is posted on the board's website and reported to the National Practitioner Data Bank.]~~

(8)~~[(10)]~~ Endorsement--The process whereby the council~~[board]~~ reviews licensing requirements that a license applicant completed while under the jurisdiction of an out-of-state

marriage and family therapy regulatory board. The council~~[board]~~ may accept, deny or grant partial credit for requirements completed in a different jurisdiction.

(9) Executive director--the executive director for the Texas Behavioral Health Executive Council.

(10)~~[(14)]~~ Family system--An open, on-going, goal-seeking, self-regulating, social system which shares features of all such systems. Certain features such as its unique structuring of gender, race, nationality and generation set it apart from other social systems. Each individual family system is shaped by its own particular structural features (size, complexity, composition, and life stage), the psychobiological characteristics of its individual members (age, race, nationality, gender, fertility, health and temperament) and its socio-cultural and historic position in its larger environment.

~~[(12) Formal hearing--A hearing or proceeding in accordance with this chapter to address the issues of a contested case.]~~

(11)~~[(13)]~~ Group supervision--Supervision that involves a minimum of three and no more than six marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.

~~[(14) HHSC--The Health and Human Services Commission.]~~

(12)~~[(15)]~~ Individual supervision--Supervision of no more than two marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.

~~[(16) Informal settlement conference--An informal disposition of a contested case held to determine whether the disputed matters can be resolved without further proceedings.]~~

~~[(17) Investigator--A professional complaint investigator employed by the HHSC.]~~

(13)~~[(18)]~~ Jurisprudence exam--An online learning experience based on the Act, the Council Act, and council~~[board]~~ rules, and other state laws and rules relating to the practice of marriage and family therapy.

(14)~~[(19)]~~ License--A marriage and family therapist license, a marriage and family therapist associate license, a provisional marriage and family therapist license, or a provisional marriage and family therapist associate license.

(15)~~[(20)]~~ Licensed marriage and family therapist (LMFT)--A qualified individual licensed by the council~~[board]~~ to provide marriage and family therapy for compensation.

(16)~~[(21)]~~ Licensed marriage and family therapist associate (LMFT Associate)--A qualified individual licensed by the council~~[board]~~ to provide marriage and family therapy for compensation under the supervision of a council~~[board]~~-approved supervisor. The appropriate council~~[board]~~-approved terms to refer to an LMFT Associate are: "Licensed Marriage and Family Therapist Associate" or "LMFT Associate." Other terminology or abbreviations like "LMFT A" are not council~~[board]~~-approved and may not be used.

(17)~~[(22)]~~ Licensee--Any person licensed by the council~~[board]~~.

(18)~~[(23)]~~ Licensure examination--The national licensure examination administered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or the State of California marriage and family therapy licensure examination.

(19)~~[(24)]~~ Marriage and family therapy--The rendering of professional therapeutic services to clients, singly or in groups, and involves the professional application of family systems theories and techniques in the delivery of therapeutic services to those persons. The term includes the evaluation and remediation of cognitive, affective, behavioral, or relational dysfunction or processes.

(20)~~[(25)]~~ Month--A calendar month.

~~[(26) Open Meetings Act--Texas Government Code Chapter 551.]~~

~~[(27) Party--Each person, governmental agency, or officer or employee of a governmental agency named by the administrative law judge (ALJ) as having an interest in the matter being considered, or any person, governmental agency, or officer or employee of a governmental agency meeting the requirements of a party as prescribed by applicable law.]~~

(21)~~[(28)]~~ Person--An individual, corporation, partnership, or other legal entity.

~~[(29) Pleading--Any written allegation filed by a party concerning its claim or position.]~~

~~[(30) Public Information Act--Texas Government Code Chapter 552.]~~

(22)~~[(31)]~~ Recognized religious practitioner--A rabbi, clergyman, or person of similar status who is a member in good standing of and accountable to a legally recognized denomination or legally recognizable religious denomination or legally recognizable religious organization and other individuals participating with them in pastoral counseling if:

(A) the therapy activities are within the scope of the performance of regular or specialized ministerial duties and are performed under the auspices of sponsorship of an established and legally recognized church, denomination or sect, or an integrated auxiliary of a church as defined in 26 CFR §1.6033-2(h) (relating to Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980));

(B) the individual providing the service remains accountable to the established authority of that church, denomination, sect, or integrated auxiliary; and

(C) the person does not use the title of or hold himself or herself out as a licensed marriage and family therapist.

~~[(32) Respondent--A person alleged to have violated the Act or board rules.]~~

(23)~~[(33)]~~ Supervision--

(A) Supervision for licensure--The guidance or management in the provision of clinical services by a marriage and family therapy supervisee or LMFT Associate, which must be conducted for at least one supervision hour each week, except for good cause shown.

(B) Supervision, Council~~[Board]~~-ordered--For the oversight and rehabilitation in the provision of clinical services by a licensee under a Council~~[Board]~~ Order, defined by the Order and the Council~~[Board]~~-Ordered Supervision Plan, and must be conducted as specified in the Council~~[Board]~~ Order and Supervision Plan (generally in face-to-face, one-on-one sessions).

(24)~~(34)~~ Supervision hour--50 minutes.

(25)~~(35)~~ Supervisor--An LMFT with supervisor status meeting the requirements set out in §801.143 of this title (relating to Supervisor Requirements). The appropriate council~~[board]~~-approved terminology to use in reference to a Supervisor is: "Supervisor," "Licensed Marriage and Family Therapist Supervisor," "LMFT-S" or "LMFT Supervisor." Other terminology or abbreviations may not be used.

(26)~~(36)~~ Technology-assisted services--Providing therapy or supervision with technologies and devices for electronic communication and information exchange between a licensee in one location and a client or supervisee in another location.

(27)~~(37)~~ Therapist--A person who holds a license issued by the council~~[board]~~.

(28)~~(38)~~ Waiver--The suspension of educational, professional, or examination requirements for an applicant who meets licensing requirements under special conditions.

SUBCHAPTER B. THE BOARD.

§801.11 The Board

(a) Membership. The board is composed of nine members appointed by the governor. Four members must be selected from the general public. Five members must be eligible for licensure under the Act, at least one of whom must be a professional educator in marriage and family therapy. These members must have engaged in the practice or~~of~~ education of marriage and family therapy for at least five years, or have 5,000 hours of clinical experience in the practice of marriage and family therapy.

(b) – (d) (No change.)

(e) Officers.

(1) Chair. The chair is appointed by the governor and serves at the will of the governor.

(A) The chair presides at all meetings he or she attends and performs all duties prescribed by law and board rules.

(B) The chair is authorized by the board to make minor procedural decisions regarding board activities in order to facilitate the responsiveness and effectiveness of the board. The executive director or the executive director's designee will keep a record of the minor procedural decisions and include them in a [the executive director's] report to the board.

(2) (No change.)

(f) Committees. The chair may appoint board members to committees to assist the board in its work. All committees must consist of no more than four members and must make reports to the board at regular meetings. ~~[The chair must appoint at least one public member to any committee established to review a complaint or enforcement action.]~~

(g) (No change.)

(h) Meetings.

(1) Agendas.

(A) – (B) (No change.)

~~[(C) Any individual wishing to be on the agenda to present a specified topic at a meeting of the board must provide a written request to the executive director in time to be placed on the agenda (not later than 30 days before the scheduled date of the meeting) which describes the topic to be addressed. The chair may limit as appropriate the time for public participation.]~~

(2) – (3) (No change.)

~~[(4) Rules of parliamentary procedure. All official board decisions must be made according to parliamentary procedure as set forth in the latest edition of Robert's Rules of Order Revised. If a question arises concerning interpretation of the latest edition of Robert's Rules of Order Revised, the chair or acting chair will make the decision.]~~

~~(4)~~⁽⁵⁾ Transaction of official business. The board may transact official business only when it is a legally constituted meeting with a quorum present. Five members of the board constitute a quorum.

(i) – (j) (No change.)

~~[§801.12~~ Petition for the Adoption of a Rule

~~(a) Purpose. The purpose of this section is to establish procedures for the submission, consideration, and disposition of a petition to adopt a rule.~~

~~(b) Submission of the petition.~~

~~(1) Any person may petition the board to adopt a rule.~~

~~(2) The petition must be in writing; state the petitioner's name, address, and telephone number; and contain the following:~~

~~(A) a brief explanation of and justification for the proposed rule;~~

~~(B) the text of the proposed rule prepared in a manner to indicate the words to be added or deleted from the current text, if any;~~

~~(C) a statement of the statutory or other authority under which the proposed rule is to be promulgated; and~~

~~(D) the public benefit anticipated as a result of adopting the proposed rule or the anticipated injury or inequity which could result from the failure to adopt the proposed rule.~~

~~(3) The petition must be filed with the board office.~~

~~(4) The executive director or the executive director's designee may determine that the petition does not contain the information described in paragraph (2) of this subsection and return the petition to the petitioner.~~

~~(c) Consideration and disposition of the petition.~~

~~(1) Except as otherwise provided in subsection (d) of this section, the executive director must submit a completed petition to the board for consideration.~~

~~(2) If the board denies the petition, the board must give the petitioner written notice of the board's denial, including the board's reasons for the denial.~~

~~(3) If the board begins rulemaking procedures, the version of the rule the board proposes may differ from the version proposed by the petitioner.~~

~~(d) Subsequent petitions to adopt the same or similar rules. The board may refuse to consider a subsequent petition for the adoption of the same or similar rule submitted within six months after the date of an initial petition.]~~

~~[§801.13 Executive Director and HHSC~~

~~(a) Following consultation with the board members, HHSC will appoint an employee as executive director for the board.~~

~~(b) The executive director or the executive director's designee keeps the minutes of the meetings and proceedings of the board and is the custodian of the files and records of the board.~~

~~(c) HHSC exercises general supervision over individuals employed in the administration of the Texas Occupations Code, Chapter 502 (relating to the Act).~~

~~(d) The executive director is responsible for the preliminary information regarding complaints and for the presentation of complaints to the board.~~

~~(e) The executive director or the executive director's designee processes all correspondence for the board and prepares reports and information the board may modify or authorize.~~

~~(f) The executive director or the executive director's designee is responsible for assembling and reviewing application materials. Determinations made by the executive director or the executive director's designee are subject to approval or modification by the board, which makes the final decision regarding applicant eligibility.]~~

~~[§801.14 Official Records~~

~~(a) All official records of the board, except those records containing information considered confidential under the provisions of Texas Government Code, Chapter 552 (relating to Public Information) and the Act are open for public inspection during regular office hours.~~

~~(b) Official records may not be taken from board offices; however, persons may obtain copies of files upon written request and by paying the cost per page set by the General Services Commission and HHSC.]~~

~~[§801.15 Impartiality and Nondiscrimination~~

~~(a) The board may not make a decision in the discharge of its statutory authority with regard to any person's race, religion, color, gender, national origin, age, disability, sexual orientation, or genetic information.~~

~~(b) Any board member who is unable to be impartial in the determination of an applicant's eligibility for licensure or board approved supervisor status or in a disciplinary action against a licensee must declare this to the board and may not participate in any board proceedings involving that applicant or licensee.]~~

~~[§801.16 Policy on Disability Accommodations~~

~~The board complies with the Americans with Disabilities Act (42 U.S.C. §12101 et seq.) in the delivery of its services to applicants and licensees. A person who needs reasonable accommodations in order to access board services must request accommodations in writing and may be required to provide verification of the person's disability and recommendations for appropriate accommodations from a medical, mental health, rehabilitation, or educational professional or specialist qualified to make such recommendations.]~~

~~[§801.17 License Certificate~~

~~(a) The board will provide each licensee a license certificate and a renewal card which contains the licensee's name and license number.~~

~~(b) Any license certificate or renewal card issued by the board remains the board's property and must be surrendered to the board upon demand.]~~

~~[§801.18 Fees~~

~~(a) The schedule of fees is as follows:~~

~~(1) application fee—\$40;~~

~~(2) licensure examination fee—is in accordance with the current contracted examination fee;~~

~~(3) initial licensure fee issued for a two-year term—\$90;~~

~~(4) biennial renewal fee—\$130;~~

~~(5) late renewal fees:~~

~~(A) on or before 90 days after the expiration date—biennial renewal fee plus \$33; and~~

~~(B) more than 90 days but less than one year after the expiration date—biennial renewal fee plus \$65;~~

- ~~(6) inactive status (administrative) fee—\$75;~~
- ~~(7) duplicate license fee—\$10;~~
- ~~(8) provisional licensure fee—\$40;~~
- ~~(9) child support reinstatement fee—\$40;~~
- ~~(10) verification fee—\$10;~~
- ~~(11) student loan default reinstatement fee—\$40;~~
- ~~(12) criminal history evaluation letter fee—\$50;~~
- ~~(13) application fee for board approved supervisor status—\$20; and~~
- ~~(14) biennial renewal fee for board approved supervisor status—\$50.~~

~~(b) All fees are nonrefundable.~~

~~(c) For all applications and renewals, the board is required to collect subscription and convenience fees to recover costs associated with application and renewal processing through www.texas.gov.~~

~~(d) For all applications and renewals, the board is required to collect fees to fund the Office of Patient Protection in accordance with Texas Occupations Code, §101.307 (relating to Health Professions Council).~~

~~(e) The board will make periodic reviews of its fee schedule to ensure funds meet its expenses without creating an unnecessary surplus. All fee changes will be made through rulemaking procedures.]~~

[§801.19 Request for Criminal History Evaluation Letter

~~(a) In accordance with Texas Occupations Code, §53.102 (relating to Request for Criminal History Evaluation Letter), a person may request staff to issue a criminal history evaluation letter regarding the person's eligibility for a license if the person:~~

~~(1) is enrolled or planning to enroll in an educational program that prepares a person for an initial license or is planning to take an examination for an initial license; and~~

~~(2) has reason to believe the person is ineligible for the license due to a conviction or deferred adjudication.~~

~~(b) A person making a request for issuance of a criminal history evaluation letter must submit the request on a form prescribed by staff, the criminal history evaluation letter fee, and the required supporting documentation as described on the form. The request must state the basis for the person's potential ineligibility.~~

~~(c) Staff have the same authority to investigate a request submitted under this section and the requestor's eligibility that staff have to investigate a person applying for a license.~~

~~(d) If staff determine a ground for ineligibility does not exist, staff must notify the requestor in writing of the determination not later than the 90th day after the date staff received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form.~~

~~(e) If staff determine the requestor is ineligible for a license, staff must issue a letter setting out each basis for potential ineligibility and staff's determination as to eligibility. The letter must be issued not later than the 90th day after the date staff received the request form, the criminal history evaluation letter fee, and any supporting documentation as described in the request form. In the absence of evidence known to, but not disclosed by, the requestor or not reasonably available to staff at the time the letter is issued, staff's ruling on the request determines the requestor's eligibility with respect to the grounds for potential ineligibility set out in the letter.]~~

~~SUBCHAPTER B. RULES OF PRACTICE.[C. GUIDELINES FOR PROFESSIONAL THERAPEUTIC SERVICES AND CODE OF ETHICS.]~~

§801.41 Purpose of Rules of Practice

The purpose of this subchapter is to provide guidelines regarding the provision of professional therapeutic services and to establish standards of professional and ethical conduct required of a licensee.

§801.43 Professional Representation

(a) A licensee is subject to and bound by provisions of the Act, the Council Act, and council rules.

(b) A licensee must submit written report to the council of an alleged misrepresentation or violation of the Act, the Council Act, or council rules.

(c)[(a)] When providing professional therapeutic services as defined in §801.42 of this title (relating to Professional Therapeutic Services), a licensee must indicate his or her licensure status as an LMFT or LMFT Associate, including any probationary status or other restrictions placed on the licensee by the council~~board~~.

(d)[(b)] A licensee may not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the licensee's services, including:

- (1) the effectiveness of services;
- (2) the licensee's qualifications, capabilities, background, training, education, experience, professional affiliations, fees, products, or publications; or
- (3) the practice of marriage and family therapy.

(e)[(c)] A licensee may not misrepresent any agency or organization by presenting it as having attributes that it does not possess.

(f)[(d)] A licensee may not encourage, or within the licensee's power, allow a client to hold exaggerated ideas about the efficacy of services provided by the licensee.

(g)~~(e)~~ A licensee must make reasonable efforts to prevent others whom the licensee does not control from making misrepresentations, exaggerated, false, deceptive, or fraudulent claims or statements about the licensee's practice, services, qualifications, associations, or activities. If a licensee learns of a misrepresentation, exaggerated, false, deceptive, or fraudulent claim or statement made by another, the licensee must take immediate and reasonable action to correct the misrepresentation, claim or statement.

§801.44 Relationships with Clients

(a) (No change.)

(b) A licensee must make known in writing to a prospective client the important aspects of the professional relationship, including the licensee's status as an LMFT or LMFT Associate, any probationary status or other restrictions placed on the licensee by the council~~board~~, office procedures, after-hours coverage, fees, and arrangements for payment (which might affect the client's decision to enter into the relationship).

(c) – (k) (No change.)

(l) A licensee must make a reasonable effort to avoid non-therapeutic relationships with clients or former clients. A non-therapeutic relationship is an activity begun by either the licensee,~~or~~ the client, or former client for the purposes of establishing a social, business, or other relationship not related to therapy~~non-therapeutic relationship~~. A licensee must ensure the welfare of the client or former client if a non-therapeutic relationship arises.

(m) – (n) (No change.)

(o) A licensee who engages in technology-assisted services must provide the client with the licensee's license number and information on how to contact the council~~board~~ by telephone, electronic communication, or mail. The licensee must comply with all other provisions of this chapter.

(p) - (t) (No change.)

(u) A licensee may not aid or abet the unlicensed practice of marriage and family therapy services by a person required to be licensed under the Act. A licensee must report to the council~~board~~ knowledge of any unlicensed practice.

(v) (No change.)

(w) A licensee may not provide services while impaired by physical health, mental health, medical condition, or by medication, drugs, or alcohol.

§801.45 Sexual Misconduct

(a) The following words and terms, when used in this section, have the following meanings, unless the context clearly indicates otherwise.

(1) (No change.)

~~[(2) Mental health services provider--A licensee or any other licensed or unlicensed individual who performs or purports to perform mental health services, including a licensee under the provisions of the Act.]~~

~~(2)~~[(3)] Sexual contact--

(A) deviate sexual intercourse as defined by Texas Penal Code, §21.01;

(B) sexual contact as defined by Texas Penal Code, §21.01;

(C) sexual intercourse as defined by Texas Penal Code, §21.01;

(D) requests by a licensee for conduct described by subparagraph (A), (B), or (C) of this paragraph.

~~(3)~~[(4)] Sexual exploitation--A pattern, practice, or scheme of conduct, which may include sexual contact, that can reasonably be construed as being for the purposes of sexual arousal or gratification or sexual abuse of any person. The term does not include obtaining information about a client's sexual history within standard accepted practice.

~~(4)~~[(5)] Therapeutic deception--A representation by a licensee that sexual contact with, or sexual exploitation by, the licensee is consistent with, or a part of, a client's or former client's therapy.

(b) – (g) (No change.)

§801.47 Drug and Alcohol Use

A licensee may not use alcohol or drugs in a manner which adversely affects the licensee's ability to provide marriage and family therapy services.[:

~~(1) use alcohol or drugs in a manner which adversely affects the licensee's ability to provide marriage and family therapy services; or~~

~~(2) use any kind of illegal drugs.]~~

§801.48 Record Keeping, Confidentiality, Release of Records, and Required Reporting

(a) – (c) (No change.)

(d) A licensee must report or release information as required by the following statutes:

(1) – (3) (No change.)

(4) Texas Civil Practice and Remedies Code, §81.006 (relating to Duty to Report Sexual Exploitation by a Mental Health Services Provider).

(A) If a licensee has reasonable cause to suspect that a client has been the victim of a sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider during therapy or any other course of treatment, or if a client alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or mental health

services provider (during therapy or any other course of treatment), the licensee must report alleged misconduct not later than the 30th day after the date the licensee became aware of the misconduct or the allegations to:

(i) (No change.)

(ii) the council~~[board]~~ if the misconduct involves a licensee; and

(iii) (No change.)

(B) – (C) (No change.)

(e) A licensee must keep accurate records of therapeutic services, including dates of services, types of services, progress or case notes and billing information for a minimum of seven~~[six]~~ years after termination of services or~~[for an adult client and]~~ five years after a client reaches the age of majority~~[beyond the age of 18 for a minor]~~, whichever is greater~~[longer]~~.

(f) – (h) (No change.)

~~[§801.49 Licensees and the Board~~

~~(a) Any person licensed by the board is bound by the provisions of the Act and this chapter.~~

~~(b) A licensee must report alleged misrepresentations or violations of this chapter to the board.~~

~~(c) The licensee must submit a written and signed report of name changes, any changes in home or business address or phone number, employment setting, or other relevant changes to the board within 30 days of the change.~~

~~(d) The board is not responsible for any lost or misdirected mail if sent to the address last reported by the licensee.~~

~~(e) The failure of a licensee to timely respond to a request from the board or staff for information or other correspondence is unprofessional conduct and grounds for disciplinary proceedings.~~

~~(f) A licensee must provide an official transcript to the board within 30 days of the granting of an academic degree relevant to the practice of marriage and family therapy.~~

~~(g) A licensee must make a written report to the board office within 30 days of the following situations:~~

~~(1) the licensee's arrest, deferred adjudication, or criminal conviction, other than for a Class C misdemeanor traffic offense;~~

~~(2) the filing of a criminal case against the licensee;~~

~~(3) the settlement of a judgment rendered in a civil lawsuit filed against the licensee and related to the licensee's marriage and family therapy practice; or~~

~~(4) complaints, investigations, or actions against the licensee by a governmental agency or by a licensing or certification body.~~

~~(h) Failure to make a report as required by this section is grounds for disciplinary action by the board.]~~

§801.50 Corporation and Business Names

When an assumed name is used in any practice of therapy, the name of the licensee must be listed in conjunction with the assumed name. An assumed name used by a licensee may not be false, deceptive, or misleading.

~~[(a) An individual practice by a licensee may be incorporated in accordance with Texas Business Organizations Code, Chapter 301 (relating to Provisions Relating to Professional Entities) or other applicable law.~~

~~(b) When an assumed name is used in any practice of therapy, the name of the licensee must be listed in conjunction with the assumed name. An assumed name used by a licensee may not be false, deceptive, or misleading.]~~

~~[§801.51 Consumer Complaint Information~~

~~(a) At a minimum, a licensee must inform each client of the name, address, and telephone number of the board for the purpose of directing complaints to the board:~~

- ~~(1) on each registration form, application, or written contract for services;~~
- ~~(2) on a sign prominently displayed in the place of business; or~~
- ~~(3) in a bill for therapy services provided to a client or third party.~~

~~(b) The board will provide consumer information and board procedures for handling and resolving complaints on its website.~~

~~(c) The board will make consumer information available to the public and appropriate state agencies.]~~

~~[§801.52 Display of License Certificate~~

~~(a) A licensee must display an original or true and accurate copy of an original, board issued license certificate and renewal card in a prominent place in all locations of practice.~~

~~(b) A licensee may not make any alteration on a license certificate or annual renewal card issued by the board.~~

~~(c) A licensee may not display a license certificate or renewal card issued by the board that is altered, expired, suspended, or revoked.~~

~~(d) A licensee who elects to copy a board issued license certificate or certificate card is responsible for the use or misuse of the reproduced license.]~~

§801.53 Advertising and Announcements

(a) – (b) (No change.)

(c) The council~~[board]~~ imposes no restrictions on advertising by a licensee with regard to the use of any medium, the licensee's personal appearance, or the use of his or her personal voice, the size or duration of an advertisement by a licensee, or the use of a trade name. A licensee who retains or hires others to advertise or promote the licensee's practice remains responsible for the statements and representations made.

(d) – (f) (No change.)

(g) If a licensee becomes aware of a misuse of licensee's license certificate or misrepresentation of licensee's services or the results of licensee's services, the licensee must take reasonable steps to correct or minimize the misuse or misrepresentation.

§801.55 Parenting Coordination

(a) (No change.)

(b) A licensee who serves as a parenting coordinator is not acting under the authority of a license issued by the council~~[board]~~, and is not engaged in the practice of marriage and family therapy. The services provided by the licensee who serves as a parenting coordinator are not within the jurisdiction of the council~~[board]~~, but rather the jurisdiction of the appointing court.

(c) – (e) (No change.)

§801.56 Parenting Facilitation

(a) – (u) (No change.)

(v) Information obtained during the parenting facilitation process may not be shared outside the parenting facilitation process except for professional purposes, as provided by court order, by written agreement of the parties, or as directed by the council~~[board]~~.

(w) – (x) (No change.)

(y) Records of a licensee serving as a parenting facilitator are not mental health records and are not subject to the disclosure requirements of Texas Health and Safety Code, Chapter 611. At a minimum, records shall be maintained for the period of time described in §153.6083(c) of the Texas Family Code (concerning Communications and Recordkeeping of Parenting Facilitator)~~[§801.48(e) of this title (relating to Record Keeping, Confidentiality, Release of Records, and Required Reporting);]~~ or as otherwise directed by the court.

(z) Records of a licensee serving as a parenting facilitator must be released on the request of either parent, as directed by the court, or as directed by the council~~[board]~~.

(aa) – (dd) (No change.)

~~[(ee) The minimum training for a licensee serving as a parenting facilitator that is required by the Texas Family Code, §153.6101(b), and is determined by the court is:~~

~~(1) eight hours of family violence dynamics training provided by a family violence service provider;~~

~~(2) Forty (40) classroom hours of training in dispute resolution techniques in a course conducted by an alternative dispute resolution system or other dispute resolution organization approved by the court;~~

~~(3) Twenty four (24) classroom hours of training in the fields of family dynamics, child development, family law; and~~

~~(4) Sixteen (16) hours of training in the laws and board rules governing parenting coordination and facilitation, and the multiple styles and procedures used in different models of service.]~~

(ff) – (hh) (No change.)

§801.57 Child Custody Evaluations

(a) (No change.)

(b) When a licensee who has conducted a court-ordered child custody evaluation or adoption evaluation receives any complaint relating to the outcome of the evaluation, the licensee must report the complaint to the court that ordered the evaluation. See council rules, found in 22 Texas Administrative Code, §884.3 (concerning Special Requirements for Complaints Alleging Violations Related to Court Ordered Evaluations)~~[The board reviews only complaints regarding forensic evaluations that allegedly violated specific board rules].~~

(c) – (g) (No change.)

§801.58 Technology-Assisted Services

(a) Licensees who provide marriage and family therapy to clients or supervision to supervisees outside the State of Texas must comply with the laws and rules of Texas~~[this board]~~ and of the out-of-state ~~[regulatory]~~ authority which govern the practice of marriage and family therapy.

(b) – (c) (No change.)

(c) In accordance with Texas Occupations Code, §502.251 (relating to License Required), a person may not practice as a marriage and family therapist unless the person holds a license under this chapter or is exempt under Texas Occupations Code, §502.004 (relating to Application of Chapter).

(d) Before providing technology-assisted services, a licensee must receive appropriate education, training, or supervised experience in using relevant technology. A therapist who uses technology-assisted services must maintain documentation of academic preparation and supervision in the use of technology-assisted services as part of the therapist's academic program or the substantial equivalent provided through at least eight~~[15]~~ hours of continuing education and 2 hours every subsequent renewal period.

(e) – (g) (No change.)

(h) Informed consent must include, at a minimum, information that defines electronic service delivery as practiced by the licensee and the potential risks and ethical considerations. The licensee must obtain and maintain written or~~[and/or]~~ electronic evidence documenting appropriate client informed consent for the use of technology-assisted services. The licensee must ensure that the informed consent complies with other informed consent requirements in this chapter and must include the following:

(1) – (11) (No change.)

(i) (No change.)

SUBCHAPTER C. APPLICATIONS AND LICENSING.~~[D. APPLICATION PROCEDURES (HEADING AMENDED)]~~

§801.71 Purpose of Applications and Licensing~~[Application Procedures]~~

(No change.)

~~[§801.72 General Application Procedures~~

~~(a) Unless otherwise indicated, an applicant must submit all required information and documentation of credentials on official board forms.~~

~~(b) The board does not consider an application as officially submitted until the applicant pays the application fee. The fee must accompany the application form.~~

~~(c) An applicant must complete the application process, satisfying any deficiencies, within one year of the original date of filing. An application not completed one year past the date an application is opened is void.]~~

~~[§801.73 Required Application Materials~~

~~An applicant must submit:~~

~~(1) an application form approved by the board;~~

~~(2) the appropriate fee(s) per §801.18 of this title (relating to Fees);~~

~~(3) an official transcript(s), indicating the date the degree required for licensure was awarded or conferred and sent directly to the board's office from all colleges or universities where post baccalaureate course work was completed;~~

~~(4) supporting documentation and other materials the board may deem necessary, including current employment arrangements and the name of all jurisdictions where the applicant currently holds or has held a certificate or license to practice marriage and family therapy; and~~

~~(5) proof of successful completion of the jurisprudence exam no more than six months before the date the application is received.]~~

§801.74 Application to Take Licensure Examination

~~[(a) Application Requirements.]~~ An applicant must submit:

(1) all requirements in council rules, 22 Texas Administrative Code, §§882.1 and 882.2 (concerning Application Process and General Application File Requirements)~~[\$801.73 of this title (relating to Required Application Materials)]~~;

(2) in lieu of an official transcript as required in council rules~~[\$801.73(3) of this title]~~, a letter from a college or university official stating the applicant is in good academic standing and has completed or is enrolled in a graduate internship in marriage and family therapy or an equivalent internshipmay be submitted to approve the applicant to sit for licensure examination, but the applicant must still submit an official transcript before the license may be issued;

(3) a copy of government-issued picture identification (i.e., driver's license, passport);and

(4) an Examination Security Information Acknowledgement Form.]; and

~~(5) a Course Equivalency Request Form, if applicant holds a master's or doctorate degree in a related mental health field with a planned course of study in marriage and family therapy as described in §801.113(d) and (e) of this title (relating to Academic Requirements) with minimum course content as described in §801.114 of this title (relating to Academic Course Content).~~

~~(b) Academic Requirements. An applicant must meet the academic requirements as prescribed in §801.112 of this title (relating to General Academic Requirements).~~

~~(c) Academic Course Content. An applicant must meet the academic course content requirements as mandated in §801.114 of this title.]~~

§801.75 Application for Licensed Marriage and Family Therapist Associate (LMFT Associate)

(a) Qualifications. An applicant for LMFT Associate must meet the qualifications required by §502.252(b) of the Act.

(b) Application Requirements. An applicant must submit:

(1) all requirements in council rules, 22 Texas Administrative Code, §§882.1 and 882.2 (concerning Application Process and General Application File Requirements)~~[\$801.73 of this title (relating to Required Application Materials)]~~;

(2) Supervisory Agreement Form; and

(3) proof of achieving a passing score on a licensure examination.

(c) Academic Requirements. An applicant for LMFT Associate must meet the education requirements as prescribed in §801.112 of this title (relating to General Academic Requirements).Staff may require an applicant to submit a council-approved educational equivalency form.

~~[(d) Academic Course Content. An applicant for LMFT Associate must meet the academic course content requirements as mandated in §801.114 of this title (relating to Academic Course Content).]~~

§801.76 Application for Licensed Marriage and Family Therapist (LMFT)

(a) Qualifications. An applicant for LMFT must meet the qualifications required by §502.252(b) of the Act.

(b) Application Requirements. An applicant must submit:

(1) all requirements in council rules, 22 Texas Administrative Code, §§882.1 and 882.2 (relating to Application Process and General Application File Requirements)~~[§801.73 of this title (relating to Required Application Materials)]~~;

(2) a licensed Supervised Experience Verification Form; and

(3) proof of achieving a passing score on a licensure examination.

(c) Academic Requirements. An applicant for LMFT must meet the education requirements as prescribed in §801.112 of this title (relating to General Academic Requirements). Staff may require an applicant to submit a council-approved educational equivalency form.

~~[(d) Academic Course Content. An applicant for LMFT must meet the academic course content requirements as mandated in §801.114 of this title (relating to Academic Course Content).]~~

~~(d)~~^(e) Supervised Clinical Experience Requirements and Conditions. An applicant for LMFT must meet the supervised clinical experience requirements and conditions as mandated in §801.142 of this title (relating to Supervised Clinical Experience Requirements and Conditions).

~~[SUBCHAPTER E. CRITERIA FOR DETERMINING FITNESS OF APPLICANTS FOR EXAMINATION AND LICENSURE.]~~

~~[§801.91 Purpose of Criteria for Determining Fitness of Applicants]~~

~~The purpose of this subchapter is to establish the criteria by which the board will determine the qualifications required of applicants for approval for examination or licensure.]~~

~~[§801.92 Finding of Non-Fitness for Licensure]~~

~~The board may deny a license if it finds an applicant:~~

~~(1) lacks the necessary skills and abilities to provide adequate marriage and family therapy services;~~

~~(2) misrepresented any information in the application or other materials submitted to the board;~~

~~(3) violated any provision of the Act or this chapter applicable to an unlicensed person in effect at the time of application;~~

~~(4) violated any provision of code of ethics which would have applied if the applicant had been a licensee at the time of the violation; or~~

~~(5) has a criminal conviction per §801.332 of this title (relating to Criminal Conviction).]~~

~~[§801.93 Finding of Non-Fitness for Licensure Subsequent to Issuance of License~~

~~The board may take disciplinary action based upon information received after issuance of a license, even if the violation occurred before issuance of the license.]~~

~~[SUBCHAPTER F. ACADEMIC REQUIREMENTS FOR EXAMINATION AND LICENSURE.]~~

~~[§801.111 Purpose of Academic Requirements~~

~~This subchapter establishes the academic requirements for examination and licensure for an LMFT and LMFT Associate.]~~

§801.112 General Academic Requirements

(a) An applicant must submit an official transcript showing:

(1) – (2) (No change.)

(3) a master's or doctorate degree from a regionally[an] accredited institution of higher education in marriage and family therapy or~~[or program as defined in §801.2 of this title (relating to Definitions)]~~ in a related mental health field with a planned course of study in marriage and family therapy as described in §801.113(b), (c), and (d) ~~[and (e)]~~ of this title (relating to Academic Requirements) with the required minimum course content as described in §801.114 of this title.

(b) An applicant with foreign degree or coursework must comply with council rules, 22 Texas Administrative Code §882.11, (relating to Applicants with Foreign Degrees).~~[must submit an evaluation by a member of the National Association of Credential Evaluation Services (NACES) of any degree or coursework completed at a foreign university. Staff may not accept a foreign degree or course unless NACES has determined it to be equivalent to a degree conferred by or coursework completed in an accredited institution or program.]~~

(c) (No change.)

(d) The council[board] will not accept any undergraduate courses as meeting any academic requirements unless the applicant's official transcript clearly shows that the course was awarded graduate credit by the school.

(e) The council[board] will accept as meeting academic requirements only those courses shown on the applicant's transcript as:

(1) – (2) (No change.)

(f) The council[board] will consider a quarter hour of academic credit as two-thirds of a semester hour.

§801.113 Academic Requirements

(a) An applicant for the licensure examination must have completed or be enrolled in a council[board]-approved marriage and family therapy graduate internship.

(b) An applicant for LMFT Associate or LMFT must have a master's or doctorate degree in marriage and family therapy or a master's or doctorate degree in a related mental health field with course work and training determined by the council[board] to be substantially equivalent to a graduate degree in marriage and family therapy from a regionally accredited institution of higher education or an institution of higher education approved by the council[board] with:

(1) – (3) (No change.)

(c) (No change.)

(d) Examples of degrees in a related mental health field may include counseling, psychology, social work, or family studies with an emphasis on Marriage and Family Therapy. Degrees in fields other than those listed may be reviewed ~~[by an appropriate committee of the board]~~ for eligibility toward course equivalency in accordance with council rules, 22 Texas Administrative Code, §882.1 (relating to Application Process).

§§801.114 – 801.115 (No change.)

~~[SUBCHAPTER G. EXPERIENCE REQUIREMENTS FOR LICENSURE.]~~

~~[§801.141 Purpose of Experience Requirements]~~

~~The purpose of this subchapter establishes the minimum experience requirements for licensure as an LMFT.]~~

§801.142 Supervised Clinical Experience Requirements and Conditions

An applicant for LMFT must complete supervised clinical experience acceptable to the council[board].

(1) The LMFT Associate must have completed a minimum of two years of work experience in marriage and family therapy including at least 3,000 hours of supervised clinical practice, of which:

(A) at least 1,500 hours must be providing direct clinical services, with no more than 500 hours provided via technology-assisted services (as approved by the supervisor); and

(B) of the 1,500 hours of direct clinical services, at least 500~~[750]~~ hours must be providing direct clinical services to couples or families.

(C) of the 3,000 hours of supervised clinical practice, at least 200 hours must be council[board]-approved supervision as defined in §801.2 of this title (relating to Definitions), of which:

(i) – (iv) (No change.)

(D) (No change.)

(2) Staff may count graduate internship hours exceeding the requirements set in §801.114(b)(8) of this title (relating to Academic Course Content) toward the minimum requirement of at least 3,000 hours of supervised clinical practice under the following conditions.

(A) No more than 500 excess graduate internship hours, of which no more than 250 hours may be direct clinical services to couples or families, completed under a Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.

(B) No more than 400 excess graduate internship hours, of which no more than 200 hours may be direct clinical services to couples or families, completed under a non-COAMFTE-accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.

(C) No more than 100 excess graduate internship supervision hours may be counted toward the minimum requirement of at least 200 hours of council~~[board]~~-approved supervision.

(3) (No change.)

(4) During the post-graduate, supervised clinical experience, both the supervisor and the LMFT Associate may have disciplinary actions taken against their licenses for violations of the Act, the Council Act, or council rules~~[or this chapter]~~.

(5) Within 30 days of the initiation of supervision, an LMFT Associate must submit to the council~~[board]~~ a Supervisory Agreement Form for each council~~[board]~~-approved supervisor.

(6) An LMFT Associate may have no more than two council~~[board]~~-approved supervisors at a time, unless given prior approval by the council~~[board]~~ or its designee.

(7) Except as specified in paragraph (2) of this section, hours of supervision and supervised clinical experience accrued toward an out-of-state LMFT license may be accepted only by endorsement.

(A) The applicant must ensure supervision and supervised experience accrued in another jurisdiction is verified by the jurisdiction in which it occurred and that the other jurisdiction provides verification of supervision to the council~~[board]~~.

(B) If an applicant has been licensed as an LMFT in another United States jurisdiction for the two years immediately preceding the date the application is received, the supervised clinical experience requirements are considered met. If licensed for any other two-year period, the application will be reviewed to~~[board will]~~ determine whether clinical experience requirements have been met in accordance with council rules, 22 Texas Administrative Code, §882.1 (relating to Application Process).

§801.143 Supervisor Requirements

(a) – (c) (No change.)

(d) Within 60 days of the initiation of supervision, a supervisor must process and maintain a complete supervision file on the LMFT Associate. The supervision file must include:

(1) (No change.)

(2) proof of council[~~board~~] approval of the Supervisory Agreement Form;

(3) – (5) (No change.)

(e) Within 30 days of the termination of supervision, a supervisor must submit written notification to the council[~~board~~].

(f) Both the LMFT Associate and the council[~~board~~]-approved supervisor are fully responsible for the marriage and family therapy activities of the LMFT Associate.

(1) – (5) (No change.)

(g) (No change.)

(h) To maintain council[~~board~~] approval, a supervisor must successfully complete the following continuing education each renewal period:

(1) – (2) (No change.)

(i) (No change.)

(j) A supervisor whose license status is other than "current, active" is no longer an approved supervisor. Supervised clinical experience hours accumulated under that person's supervision after the date his or her license status changed from "current, active" or after removal of the supervisor designation will not count as acceptable hours unless approved by the council[~~board~~].

(k) A supervisor who becomes subject to a council[~~board~~] disciplinary order is no longer an approved supervisor. The person must:

(1) inform each LMFT Associate of the council[~~board~~] disciplinary order;

(2) refund all supervisory fees received after date the council[~~board~~] disciplinary order was ratified[~~signed by the board chair~~] to the LMFT Associate who paid the fees; and

(3) (No change.)

(l) – (m) (No change.)

[~~SUBCHAPTER H. EXAMINATIONS.~~]

[~~§801.171 Purpose~~]

~~The purpose of this subchapter is to establish the rules governing board-approved examinations for licensure.]~~

§801.174 Licensure and Jurisprudence Examinations

(a) The council~~[board]~~ will accept the national licensure examination administered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or the State of California marriage and family therapy licensure examination.

(b) (No change.)

(c) The council~~[board]~~, or its designee, will determine the times and places for licensing examinations and give reasonable public notice.

(d) The council~~[board]~~, or its designee, will notify the examinee of the results of the licensure examination in accordance with the current examination contract or agreement. If the council~~[board]~~ is notified of a potential delay of notification of exam results, the council~~[board]~~ will notify the examinee as soon as possible regarding the delay.

(e) An applicant who fails the national licensure examination must comply with council rules, 22 Texas Administrative Code, §882.6 (relating to Limitation on Number of Examination Attempts).~~[may retake the examination as many times as needed until the expiration of the application. The application for examination expires one year after the date of the first unsuccessful examination.]~~

(f) All applicants must comply with council rules, 22 Texas Administrative Code, §882.5 (relating to Jurisprudence Examination Requirement).~~[At the time of application, an applicant for licensure must submit proof of successful completion of the jurisprudence exam as defined in §801.2 of this title (relating to Definitions).]~~

~~[(g) The jurisprudence exam must have been completed no more than six months before the date the application is received.]~~

~~(h) The jurisprudence exam fees are paid directly to the approved vendor.]~~

~~[SUBCHAPTER I. LICENSING.]~~

~~[§801.201 General Licensing~~

~~(a) Within 30 days of receipt of application materials, staff will either issue a license with a unique license number or notify the applicant of a deficiency.~~

~~(b) A licensee must submit a written request for a duplicate license with the appropriate fee. A licensee must return a damaged license certificate or renewal card to the board.~~

~~(c) Within 30 days of receipt of licensee's written request and payment for a duplicate license, staff will mail the license certificate to the licensee's last reported mailing address.~~

~~(d) A licensee is responsible for the use or misuse of an original or a duplicate license.]~~

~~§801.202 LMFT Associate License~~

(a) (No change.)

(b) An LMFT Associate who has held the LMFT Associate license for 72 months and submitted documentation to the council~~[board]~~ to satisfy all minimum requirements for LMFT licensure, except the 500~~[750]~~-hour requirement set in §801.142(1)(B) of this title (relating to Supervised Clinical Experience Requirements and Conditions) and requiring at least 500~~[750]~~ hours of direct clinical services to couples or families, may renew his or her LMFT Associate license only once more (not exceeding 96 months of licensure as an LMFT Associate).

(c) (No change.)

§801.203 Provisional LMFT License

(a) A provisional license may be granted to a person who:

(1) is licensed or otherwise registered as a marriage and family therapist by another state or other jurisdiction, whose requirements for licensure or registration, at the time the license or registration was obtained, were substantially equivalent to the requirements set out in §801.76 of this title (relating to Application for Licensed Marriage and Family Therapist (LMFT));

(2) has successfully passed a national examination relating to marriage and family therapy or an examination approved by the council~~[board]~~;

(3) is sponsored by a Texas LMFT with whom the provisional license holder may practice under this section;

(4) provides documentation, on council~~[board]~~ prescribed forms, of the experience requirements set out in §801.142 of this title (relating to Supervised Clinical Experience Requirements and Conditions) and §801.143 of this title (relating to Supervisor Requirements)~~[Subchapter G of this chapter (relating to Experience Requirements for Licensure)]~~; and

(5) meets any other requirements set forth under the Act.

(b) Upon formal written request, the council~~[board]~~ may waive the requirement set out in subsection (a)(3) of this section if the council~~[board]~~ determines that compliance with subsection (a)(3) of this section would cause undue hardship to the applicant.

(c) The council~~[board]~~ will issue a license to a holder of a provisional license if:

(1) the provisional license holder passes the examinations required by §801.174 of this title (relating to Licensure and Jurisprudence Examinations)~~[Subchapter H of this chapter (relating to Examinations)]~~;

(2) the provisional license holder provides official graduate transcripts meeting the requirements set forth in §§801.112 through 801.115 of this title (relating to General Academic Requirements, Academic Requirements, Academic Course Content, and Academic Requirements and Supervised Clinical Internship Equivalency for Applicants Currently Licensed as an LMFT in Another Jurisdiction, respectively)~~[Subchapter F of this chapter (relating to Academic Requirements for Examination and Licensure)]~~;

(3) the provisional license holder provides documentation, on council[board] prescribed forms, of the experience requirements set out in §§801.142 and 801.143 of this title (relating to Supervised Clinical Experience Requirements and Conditions and relating to Supervisor Requirements, respectively)[Subchapter G of this chapter]; and

(4) the provisional license holder meets any other requirements set forth under the Act.

(d) The council[board] must complete the processing of a provisional license holder's application for an LMFT license within 180 days after the provisional license was issued. The council[board] may extend the 180-day deadline to allow for the receipt and tabulation of pending examination results.

§801.204 Licensing of Military Service Members, Military Veterans, and Military Spouses

(a) An applicant for licensure under this section must comply with council rules, 22 Texas Administrative Code, §882.60 (relating to Special Provisions Applying to Military Service Members, Veterans, and Spouses). [~~This section implements licensing procedures in accordance with Texas Occupations Code, Chapter 55 (relating to Licensing of Military Service Members, Military Veterans, and Military Spouses). The following definitions apply in this section:~~

~~[(1) Active duty—Current full-time military service in the U.S. Armed Forces or active duty military service as a member of the Texas military forces, as defined by Texas Government Code, §437.001 (relating to Texas Military), or similar military service of another state.~~

~~(2) License—A license, certificate, registration, permit, or other form of authorization required by law or a state agency rule that must be obtained by an individual to engage in a particular business.~~

~~(3) Military service member—A person who is on active duty.~~

~~(4) Military spouse—A person who is married to a military service member.~~

~~(5) Military veteran—A person who has served on active duty and who was discharged or released from active duty.~~

~~(6) U.S. Armed Forces—The U.S. Army, Navy, Air Force, Coast Guard, or Marine Corps or a reserve unit of one of those branches of the Armed Forces.]~~

(b) An applicant's qualifications that either match or exceed Texas licensure requirements are considered substantially equivalent[~~An applicant must provide documentation of the applicant's status as a military service member, military veteran, or military spouse. Acceptable documentation includes copies of official documents such as military service orders, marriage licenses, and military discharge records. The application of a person who fails to provide documentation of his or her status may not be processed under the requirements of this section].~~

(c) Upon request, an applicant must provide acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant must provide proof that the licensing requirements of that jurisdiction are substantially equivalent to the licensing requirements of this state.

~~[(d) The board's authority to require an applicant to undergo a criminal history background check, and the timeframes associated with that process, are not affected by the requirements of this section.]~~

~~(d)[(e)]~~ For an application for a license submitted by a verified military service member or military veteran, the applicant will receive credit towards any licensing or apprenticeship requirements, except an examination requirement, for verified military service, training, or education relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has an unacceptable criminal history as described by the Act, the Council Act, or council rules~~[and this chapter]~~.

~~(f) An applicant who is a military service member, military veteran, or military spouse who holds a current unrestricted license issued by another jurisdiction that has substantially equivalent licensing requirements must complete and submit an application form and a supplemental application form for military service member, military veteran, or military spouse. The applicant must satisfy the application and supplemental application requirements and meet the substantial equivalency requirements of the out-of-state jurisdiction. The applicant may not be subject to unresolved allegations related to the out-of-state license. The applicant must be free of any criminal background relevant to the license and must be free of any facts or circumstances that would provide grounds for denial of the license. As soon as practicable after the applicant submits a complete application, staff will process the application and issue a license to an applicant whose application meets the requirements of this section. A license issued in accordance with this section has the same term as the applicable license type otherwise issued under the Act and this subchapter. Renewal of the license is in accordance with subsection (i) of this section.~~

~~(g) In accordance with Texas Occupations Code, §55.004(e) (relating to Alternative Licensing for Military Service Members, Military Veterans, and Military Spouses), the executive director may waive any prerequisite to obtaining a license after reviewing the applicant's credentials and determining the applicant holds a license issued by another jurisdiction with licensing requirements substantially equivalent to those of this state.~~

~~(h) An applicant who is a military service member, military veteran, or military spouse and who held an unrestricted license in this state within the five years preceding the date the application is received must complete and submit an application form and a supplemental application form for military service member, military veteran, or military spouse. The applicant must satisfy the application and supplemental application requirements. The applicant may not be subject to unresolved allegations related to the license. The applicant must be free of any criminal background relevant to the license and must be free of any facts or circumstances that would provide grounds for denial of the license. As soon as practicable after the applicant submits a complete application, staff will process the application and issue a license to an applicant whose application meets the requirements of this section. Renewal of the license must be in accordance with subsection (i) of this section.~~

~~(i) If the board issues an initial license to an applicant who is a military service member, military veteran, or military spouse in accordance with subsection (f) of this section, the board will assess whether the applicant has met all licensing requirements of this state by virtue of the current license issued by another jurisdiction. The board will provide this assessment in writing to the applicant at the time the license is issued. If the applicant has not met all licensing~~

requirements of this state, the applicant must provide proof of completion at the time of the first application for license renewal. A license may not be renewed, is allowed to expire, and becomes ineffective if the applicant does not provide proof of completion at the time of the first application for license renewal.

(j) Notwithstanding any other law, staff may waive the license application fee for an applicant described in paragraph (1) or (2) of this subsection. An applicant must provide any documentation requested by staff to verify the applicant is:

(1) a military service member or military veteran whose military service, training, or education substantially meets all applicable requirements for the license; or

(2) a military service member, military veteran, or military spouse who holds a current license issued by an out-of-state regulatory authority that has license requirements that are substantially equivalent to the requirements for the license in this state.

(k) For license renewal, staff may exempt an individual who holds a license issued by the board from any increased fee or other penalty imposed for failing to renew the license in a timely manner if the individual establishes to the satisfaction of the program director the individual failed to renew the license in a timely manner because the individual was serving as a military service member.

(l) A military service member who holds a license is entitled to two years of additional time beyond the expiration date of the license to complete:

(1) any continuing education requirements; and

(2) any other requirement related to the renewal of the military service member's license.]

[§801.205 Emergency Limited Temporary License

(a) The board may issue an emergency limited temporary license to practice marriage and family therapy if:

(1) the governor declares a disaster under Texas Government Code, §418.014 (relating to Declaration of State of Disaster), and issues a proclamation in accordance with Texas Government Code, §418.016 (relating to Suspension of Certain Laws and Rules), suspending regulatory statutes and rules which would prevent, hinder, or delay necessary action in coping with the declared disaster;

(2) the board chair determines that enacting these emergency licensing provisions are necessary in that disaster area; and

(3) the applicant meets the requirements set forth herein.

(b) An emergency limited temporary license issued pursuant to this rule expires 30 days after issuance or upon expiration or termination of the state of disaster, whichever occurs earlier.

(c) An emergency limited temporary license issued pursuant to this rule is valid only for the practice of marriage and family therapy within the disaster area designated by the governor.

~~(d) To be eligible for an emergency limited temporary license to practice marriage and family therapy, an applicant must:~~

~~(1) submit an application on a board approved form; and~~

~~(2) submit written verification the applicant is actively licensed, certified, or registered as a marriage and family therapist in good standing in another jurisdiction.~~

~~(e) For purposes of subsection (d) of this section, the term "good standing" means there is not current disciplinary action on the applicant's out of state marriage and family therapy license(s).~~

~~(f) An emergency limited temporary license may be renewed for an additional 30-day period if the disaster declaration has not expired or been terminated. To renew a license, an individual must submit a renewal application on a board approved form on or before the license expiration date.~~

~~(g) An individual practicing under an emergency limited temporary license must:~~

~~(1) display a copy of his or her emergency limited temporary license in a conspicuous location when delivering marriage and family therapy services, or provide written notification of the license number and instructions on how to verify the status of a license when obtaining informed consent;~~

~~(2) provide notification to the public in a manner consistent with §801.51 of this title (relating to Consumer Complaint Information) that complaints can be filed with the board; and~~

~~(3) comply with all other statutes and board rules that govern the practice of marriage and family therapy in Texas.~~

~~(h) No fee is associated with the application, issuance, or renewal of an emergency limited temporary license.]~~

§801.206 Criminal Conviction

The following criminal convictions or deferred adjudications will be considered directly related to the duties and responsibilities of a licensee:

Figure 22 TAC §801.206

Charge (attempted or otherwise)	Timeframe
Indecency with a Child	Any
Kidnapping	Any
Murder/Homicide	Any
Rape	Any
Sexual Assault (child or otherwise)	Any
Child Pornography	Any
Exploitation of a Minor	Any
Commission of a Crime via Healthcare License	Any
Enticing a Child	Any
Aggravated Assault	Any

Aggravated Robbery	Any
Assault with a Deadly Weapon	Any
Indecent Exposure	Any
Manslaughter	Any
Improper Photography Video Recording without Consent	Any
Manufacture of Controlled Substance	Within last 5 years
Multiple Assaults	Within last 5 years
Participation in Organized Crime	Within last 5 years
Theft over \$1,500	Within last 5 years
Multiple convictions/deferred adjudications evidencing possible addiction	Within last 5 years
Burglary of Habitation	Within last 5 years
Injury to a Child/Elderly/Person with disability	Within last 5 years
Arson	Within last 5 years
Tampering with a Government Record	Within last 5 years
Forgery	Within last 5 years
*Any dismissal or “no bill” (not related to completion of deferred adjudication) exempts that offense from consideration.	

~~[SUBCHAPTER J. LICENSE RENEWAL, INACTIVE STATUS, AND SURRENDER OF LICENSE.~~

~~§801.231 Purpose~~

~~The purpose of this subchapter is to establish the rules governing licensure renewal, late renewal, surrender of license, and inactive status.~~

~~§801.232 General License Renewal~~

~~(a) A licensee must renew the license biennially or by the expiration date, whichever comes first.~~

~~(b) Each licensee is responsible for renewing licensure and paying the renewal fee before the expiration date and may not be excused from paying late renewal fees or renewal penalty fees.~~

~~(c) A licensee must satisfy continuing education requirements prescribed by the board in order to renew licensure.~~

~~(d) A licensee whose license is not renewed due to failure to meet all requirements for licensure renewal must return his or her license certificate to the board and may not advertise or represent himself or herself as an LMFT Associate or LMFT in any manner.~~

~~(e) The board will deny renewal if required by the Texas Education Code, §57.491, relating to default on a guaranteed student loan.~~

~~(f) The board may refuse to renew the license of a person who fails to pay an administrative penalty imposed in accordance with the Act unless the enforcement of the penalty is stayed or a court has ordered that the administrative penalty is not owed.~~

§801.233 Staggered Renewals

The board uses a staggered system for licensure renewals; the renewal date of an LMFT license shall be the last day of the licensee's birth month.

§801.234 Licensure Renewal

(a) At least 30 days before the expiration date of a person's license, the board will send notice to the licensee of the expiration date of the license, the amount of the renewal fee due, and a licensure renewal form which the licensee must complete and return to the board with the required fee. The licensure renewal form may be completed electronically if available. Failure to receive notice does not relieve the licensee from the responsibility to timely renew.

(b) The licensure renewal form will require the licensee to provide current addresses, telephone numbers, and information regarding completion of continuing education requirements.

(c) A license is not renewed until the board receives the completed licensure renewal form and the renewal fee, and the licensee has complied with the continuing education requirements. The board or its designee may grant the licensee additional time to complete continuing education requirements based on extraordinary circumstances, such as medical complications.

(d) The board will issue a renewal card to a licensee who has met all requirements for renewal.

§801.235 Late Renewal

(a) A person who renews a license after the expiration date but on or before 90 days after the expiration date must pay the renewal fee and late renewal fee prescribed in §801.18 of this title (relating to Fees).

(b) A person whose license was not renewed on or before 90 days after the expiration date may renew before one year after the expiration date by paying the renewal fee and late renewal fee prescribed in §801.18 of this title.

(c) A person whose license was not renewed before one year after the expiration date may reapply for a license, submitting to examination and complying with current requirements and procedures for obtaining an original license.

(d) The board may renew without re-examination an expired license of a person who was an LMFT in this state, moved to another state, and is currently licensed as a marriage and family therapist and has been in practice in the other state for the two years preceding application. The person must pay to the board a fee equal to the examination fee for the license.

§801.236 Inactive Status

(a) A licensee may request his or her active license be placed on inactive status by submitting to the board the designated form and fee prescribed in §801.18 of this title (relating to Fees).

(b) A licensee cannot practice while the license is inactive.

~~(c) Board-approved supervisory authority is relinquished upon moving the license to inactive status.~~

~~(d) Inactive licenses remain subject to disciplinary action by the board.~~

~~(e) No continuing education is required while a license is inactive.~~

~~(f) To return an inactive license to active status the licensee must submit:~~

~~(1) the reactivation form designated by the board;~~

~~(2) the reactivation fee as prescribed in §801.18 of this title;~~

~~(3) proof of completion of jurisprudence exam, no more than six months before submitting request for active status; and~~

~~(4) proof of completion of continuing education for the licensee's current two-year renewal period.~~

~~(g) Neither continuing education nor fees will be prorated.~~

~~(h) To regain board-approved supervisory authority, the licensee must reapply meeting all current requirements.~~

~~§801.237 Surrender of License~~

~~(a) A licensee may at any time voluntarily offer to surrender his or her license for any reason, without compulsion. If there is no complaint pending, board staff may accept the surrender and void the license.~~

~~(b) When a licensee has offered to surrender his or her license after a complaint has been filed which alleges violations of the Act or this chapter, the board may consider whether to accept the license surrender. If the board accepts such a surrender, that surrender is deemed to be the result of a formal disciplinary action and will be reported as a formal disciplinary action. Surrender of a license without acceptance by the board does not deprive the board of jurisdiction over the licensee in accordance with the Act or other law.~~

~~(c) Reinstatement. A license which has been surrendered and accepted may not be reinstated; however, a person may apply for a new license in accordance with the Act and this chapter.]~~

~~[SUBCHAPTER K. CONTINUING EDUCATION REQUIREMENTS.]~~

~~[§801.261 Purpose~~

~~The purpose of this subchapter is to establish the continuing education requirements for the renewal of licensure which a licensee must complete biennially or as appropriate for licensure renewal. These requirements are intended to maintain and improve the quality of professional services in marriage and family therapy provided to the public; and keep the licensee knowledgeable of current research, techniques, and practice; and provide other resources which~~

~~will improve skill and competence in marriage and family therapy. Continuing education hours must be relevant to the practice of marriage and family therapy.]~~

~~[§801.262 Deadlines~~

~~Continuing education requirements for renewal must be fulfilled during board-designated periods beginning on the first day of a licensee's renewal period and ending on the last day of the licensee's renewal period. These renewal periods are generally biennial, but if the renewal is related to the issuance of an initial license, the period may be for a period of 13 to 24 months, depending on the licensee's birth month.]~~

§801.263 Requirements for Continuing Education

(a) An LMFT must complete 30 clock hours of continuing education which is acceptable to the council~~[board]~~ each renewal period [as described in §801.262 of this title (relating to Deadlines)]. Of the 30 clock hours required for LMFT license renewal, no more than 15 clock hours may be delivered through a learning format that does not accommodate real-time interaction, such as self-study correspondence course or pre-recorded webinar.

(b) An LMFT Associate must complete 15 clock hours of continuing education which is acceptable to the council~~[board]~~ each renewal period [as described in §801.262 of this title]. Of the 15 clock hours required for LMFT Associate license renewal, no more than six clock hours may be delivered through a learning format that does not accommodate real-time interaction, such as self-study correspondence course or pre-recorded webinar.

(c) (No change.)

§801.264 (No change.)

§801.266 Determination of Clock Hour Credits and Credit Hours Granted

The council~~[board]~~ credits continuing education activities that meet the criteria §801.264 of this title (relating to Types of Acceptable Continuing Education) on a one-for-one basis with one credit hour for each clock hour spent in the continuing education activity, unless otherwise designated in the provisions below:

(1) – (4) (No change.)

~~[§801.268 Reporting and Auditing of Continuing Education~~

~~(a) At the time of renewal, the licensee must report completion of approved continuing education as required in §801.263 of this title (relating to Requirements for Continuing Education).~~

~~(b) The board will conduct random audits of a licensee's compliance with the continuing education requirements. A licensee selected for audit must submit continuing education documentation upon request. Individual continuing education certificates of attendance may not be submitted unless the licensee is requested to do so by the board.]~~

SUBCHAPTER D. SCHEDULE OF SANCTIONS.~~[L. COMPLAINTS AND VIOLATIONS.]~~

[§801.291 General Complaints and Violations

~~The purpose of this subchapter is to establish procedures for imposing disciplinary actions and the procedures for filing complaints and allegations of statutory or rule violations.~~

~~(1) The following are grounds for imposing disciplinary actions if a person has:~~

~~(A) been convicted of an offense set in Texas Occupations Code, Chapter 53, related to Consequences of a Criminal Conviction;~~

~~(B) obtained or attempted to obtain a license by fraud or deception;~~

~~(C) used drugs or alcohol to an extent that affects professional competence;~~

~~(D) been grossly negligent in performing professional duties;~~

~~(E) been adjudicated mentally incompetent by a court of competent jurisdiction;~~

~~(F) practiced in a manner detrimental to the public health or welfare;~~

~~(G) advertised in a manner that tends to deceive or defraud the public;~~

~~(H) had a license or certification revoked by a licensing agency or by a certifying professional organization or by a governmental agency;~~

~~(I) otherwise violated the Act or board rules;~~

~~(J) committed an act for which liability exists under the Texas Civil Practice and Remedies Code, Chapter 81, concerning Sexual Exploitation by Mental Health Services Provider;~~

~~(K) violated an order of the board; or~~

~~(L) engaged in conduct that discredits or tends to discredit the profession of marriage and family therapy.~~

~~(2) If the board suspends a license, the suspension remains in effect for the period of time stated in the order or until the board determines that the reason for the suspension no longer exists.~~

~~(3) If a suspension overlaps a license renewal date, the suspended licensee must comply with all renewal procedures in Subchapter J of this chapter (regarding License Renewal, Inactive Status, and Surrender of License); however, the suspension will remain in effect pursuant to paragraph (2) of this subsection.~~

~~(4) Upon revocation, suspension or non-renewal of a license, a licensee must return his or her license certificate and all existing renewal cards to the board.]~~

[§801.292 Criteria for Denial of a License

~~The board may base the denial of a license upon the substantiation of any of the following:~~

- ~~(1) lack of the necessary skills and abilities to provide adequate therapeutic services;~~
- ~~(2) misrepresentation of professional qualifications or associations;~~
- ~~(3) misrepresentation of services and efficacy of services to clients;~~
- ~~(4) use of misleading or false advertising;~~
- ~~(5) use of relationships with clients to promote personal gain or for the profit of an agency or commercial enterprises of any kind;~~
- ~~(6) engaging in conduct prohibited in §801.45 of this title (relating to Sexual Misconduct);~~
- ~~(7) a breach of confidentiality of a client except where allowed by law;~~
- ~~(8) abuse of alcohol or drugs or the use of illegal drugs of any kind;~~
- ~~(9) any misrepresentation in the application or other materials submitted to the board;~~
- ~~(10) the violation of any provision of the Act or this chapter; and~~
- ~~(11) any other criteria listed in §801.291 of this title (relating to General Complaints and Violations).]~~

~~[§801.293 Procedures for Imposing Disciplinary Action~~

~~(a) The board gives written notice to the person on whom the board proposes to impose disciplinary action.~~

~~(b) Before imposing disciplinary action, the board gives the person the opportunity for an informal settlement conference or a formal hearing or both in accordance with the provisions of this subchapter, Subchapter N of this chapter (relating to Informal Settlement Conferences), and Subchapter O of this chapter (relating to Formal Hearings).]~~

~~[§801.294 Violations by an Unlicensed Person~~

~~(a) A person commits an offense if the person knowingly or intentionally acts as an LMFT or LMFT Associate without being licensed by the board. Such an offense is a Class B misdemeanor.~~

~~(b) An unlicensed person who facilitates or coordinates the provision of professional marriage and family therapy services but does not act as an LMFT or LMFT Associate is not in violation of the Act.~~

~~(c) If it appears to the board that a person who is not licensed under the Act is violating the Act, a rule adopted under the Act, or another state statute or rule relating to the practice of marriage and family therapy, the board after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity. A violation of a cease and desist order constitutes grounds for the imposition of an administrative penalty by the board.]~~

~~[§801.295 Power to Sue~~

~~The board may institute a law suit in its own name. The board may avail itself of any other action, proceeding, or remedy authorized by law to enjoin a violation of the Act.]~~

~~[§801.296 Complaint Procedures~~

~~(a) A complaint must be submitted to the board office on a form prescribed by the board to be an eligible complaint for board action.~~

~~(b) Allegations not involving violations of §801.45 of this title (relating to Sexual Misconduct) must be filed within 5 years of the date of termination of professional services or within 5 years of a minor client's 18th birthday, whichever is later.~~

~~(c) Staff will send acknowledgement to the complainant upon receipt of an eligible complaint.~~

~~(d) Eligible complaints will be reviewed by the review team whose members are designated in board policy to determine if the board has jurisdiction over the complaint and to determine the nature of the allegations.~~

~~(1) Complaints outside of the jurisdiction of the board will be dismissed.~~

~~(2) Jurisdictional complaints will be reviewed by the team to determine if the complaint states an allegation which, if true, constitutes a violation of the Act or board rules in this chapter.~~

~~(A) Complaints that do not state a violation of the Act or board rules in this chapter will be dismissed.~~

~~(B) Complaints that state a violation of the Act or board rules in this chapter will be investigated by board staff.~~

~~(3) Complaints under the jurisdiction of another agency will be referred to that agency.~~

~~(e) Respondent receives written notice of an investigation. Notice to a respondent is effective and service is complete when sent by certified or registered mail to the respondent's last reported address.~~

~~(f) Following completion of the investigation, staff will draft a report. This report will include a recommendation as to whether the investigation has produced sufficient evidence to establish by a preponderance of the evidence there was a violation of the Act or board rules in this chapter.~~

~~(g) The review team and counsel for the board will review the complaint's case file, including the investigation report and all evidence, to determine if there is sufficient evidence to demonstrate by a preponderance of the evidence a violation of the Act or board rules in this chapter occurred.~~

~~(1) A complaint for which the team and counsel determines the preponderance of the evidence indicates a violation of the Act or board rules in this chapter occurred will result in the issuing a Warning Letter, a Conditional Letter of Agreement, or a Notice of Violation to the~~

Respondent proposing action based on the penalty matrix set by board policy and the Respondent will be given an opportunity to request an Informal Settlement Conference.

~~(2) A complaint for which staff determines the preponderance of the evidence indicates a violation of the Act or board rules in this chapter did not occur will be dismissed.~~

~~(h) At each board meeting, staff will provide the board with a list of complaints and the disposition of each since the previous meeting of the board.]~~

~~[§801.297 Monitoring of Licensees~~

~~(a) Staff will maintain a complaint tracking system.~~

~~(b) Each licensee who has had disciplinary action taken against his or her license must submit regularly scheduled reports as ordered by the board.~~

~~(c) The executive director or executive director's designee will monitor a licensee's compliance with board order or directive, including periodic reports and will direct staff to open a new complaint alleging non-compliance if the requirements of the disciplinary action are not met.~~

~~(d) The complaint alleging non-compliance is processed per §801.296 of this title (relating to Complaint Procedures) and may result in a more severe disciplinary action.~~

~~(e) As an alternative to the denial of a license, the board may, as a condition of initial licensure, require monitoring of a licensee who may pose a potential threat to public health or safety, regardless of whether a formal complaint has been received by the board. The board may require a licensee on monitoring status to comply with specified conditions set forth by the board. A licensee placed on this type of monitoring is not considered to have formal disciplinary action taken against his or her license, but must comply fully with the board order or face possible formal disciplinary action. Factors that may constitute a potential threat to public health or safety may include reports of chemical abuse by a licensee, mental or physical health concerns, or criminal activity or allegations, whether pending or in final disposition by a court of law.~~

~~(f) Probation. If probation is ordered, the following general conditions of probation may be required:~~

~~(1) The licensee must obey all federal, state and local laws and rules governing marriage and family therapy practice.~~

~~(2) Under penalty of perjury, the licensee must submit periodic reports as the board requests on forms provided by the board, stating whether the licensee has complied with all conditions of probation.~~

~~(3) The licensee must comply with the board's probation monitoring program.~~

~~(4) The licensee must appear in person for interviews with the board or its designee at various intervals and with reasonable notice.~~

~~(5) If the licensee leaves this state to reside or to practice outside the state, the licensee must notify the board in writing of the dates of departure and return. Periods of practice outside this state will not count toward the time of this probationary period. No more than 30 days after such a move, the licensee must submit proof to the board that he or she has notified the marriage and family therapist licensing authorities of the jurisdiction to which the licensee is moving or has moved of the licensee's probationary status in this state. The probationary period resumes when the licensee returns to this state to practice.~~

~~(6) If the licensee violates probation in any respect, the board, after giving formal notice and the opportunity to be heard, may revoke the licensee's license or take other appropriate disciplinary action. The period of probation will be extended until the matter is resolved.~~

~~(7) The licensee must promptly notify in writing all principal(s) in jurisdictions and each setting in which the licensee may practice marriage and family therapy of his or her probationary status and provide proof of that notification to the board within 30 days of the effective date of the order.~~

~~(8) While on probation, the licensee may not gain any hours of supervised clinical experience required for any board-issued license.~~

~~(9) The licensee is responsible for paying the costs of complying with conditions of probation.~~

~~(10) The licensee must comply with the renewal requirements in the Act and the board rules.~~

~~(11) A licensee on probation may not practice marriage and family therapy except under the conditions described in the probation order.~~

~~(g) Board-Ordered Supervision.~~

~~(1) A licensee who is required to be supervised as a condition of initial licensure, continued licensure, or disciplinary action must:~~

~~(A) submit one supervisory plan for each practice location to the board for approval by the board or executive director or his or her designee within 30 days of the effective date of the board order;~~

~~(B) submit a current job description from the agency in which the LMFT or LMFT Associate is employed with a verification of authenticity from the agency director or his or her designee on agency letterhead or submit a copy of the contract or appointment under which the licensee intends to work, along with a statement from the potential supervisor that the supervisor has reviewed the contract and is qualified to supervise the licensee in the setting;~~

~~(C) ensure that the supervisor submits reports to the board on a schedule determined by the board. In each report, the supervisor must address the supervisee's performance, how closely the supervisee adheres to statutes and rules, any special circumstances that led to the imposition of supervision, and recommend whether the supervisee should continue licensure. If the supervisor does not recommend the supervisee for continued licensure, the supervisor must provide specific reasons for not recommending the supervisee. The board may consider the~~

supervisor's reservations, after giving the licensee formal notice and the opportunity to be heard, as grounds for further disciplinary action; and

(D) notify the board immediately if there is a disruption in the supervisory relationship or change in practice location, and submit a new supervisory plan within 30 days of the break or change in practice location.

~~(2) The supervisor who agrees to provide board-ordered supervision of a licensee who is under board disciplinary action must understand the board order and follow the supervision stipulations outlined in the order. The supervisor must address with the licensee those professional behaviors that led to board discipline, and must help to remediate those concerns while assisting the licensee to develop strategies to avoid repeating illegal, substandard, or unethical behaviors.~~

~~(3) Board-ordered and mandated supervision timeframes are specified in the board order.~~

~~(h) Release from Probation:~~

~~(1) If the executive director believes that a licensee has satisfied the terms of probation, the executive director will report to the Ethics Committee the status of the licensee's probation.~~

~~(2) If the executive director does not believe that the licensee has successfully completed probation, the executive director will direct staff to open a new complaint alleging non-compliance.~~

~~(3) The complaint alleging non-compliance is processed per §801.296 of this title (related to Complaint Procedures) and may result in more severe disciplinary action.~~

~~(4) The licensee must continue supervision and all requirements set forth in the board order, including periodic reports, until the complaint alleging non-compliance is resolved.]~~

~~[§801.298 Default Orders~~

~~(a) If a right to a hearing is waived, the board may consider an order taking disciplinary action as described in the written notice to the respondent.~~

~~(b) The respondent, usually a licensee or applicant, and the complainant will be notified of the date, time, and place of the board meeting at which the default order will be considered. Attendance is voluntary.~~

~~(c) Upon an affirmative majority vote, the board will enter an order imposing appropriate disciplinary action.]~~

~~[§801.299 Administrative Penalties~~

~~(a) The assessment of an administrative penalty is governed by the Act. An administrative penalty may be assessed for any violation, as determined by the Ethics Committee. An administrative penalty may be assessed in lieu of, or in addition to, other disciplinary actions.~~

~~(b) A hearing to assess administrative penalties will be governed by Subchapter O of this chapter (relating to Formal Hearings) except where the subchapter is in conflict with the Act.~~

(c) Severity levels with the corresponding administrative penalty amounts are set forth in §801.302 of this title (relating to Severity Level and Sanction Guide).]

~~[§801.300 Suspension of License for Failure to Pay Child Support or Non-Compliance with Child Custody Order~~

~~(a) On receipt of a final court or attorney general's order suspending a license due to failure to pay child support, or failure to comply with a court order relating to child custody, the executive director or designee will determine if the board has issued a license to the obligor named on the order, and, if a license has been issued, will:~~

~~(1) record the suspension of the license in the board's records;~~

~~(2) report the suspension as appropriate; and~~

~~(3) demand surrender of the suspended license.~~

~~(b) The board will implement the terms of a final court or attorney general's order suspending a license without additional review or hearing. The board will provide notice as appropriate to the licensee or to others concerned with the license.~~

~~(c) The board may not modify, remand, reverse, vacate, or stay a court or attorney general's order suspending a license issued under the Texas Family Code, Chapter 232 and may not review, vacate, or reconsider the terms of an order.~~

~~(d) A licensee who is the subject of a final court or attorney general's order suspending his or her license is not entitled to a refund for any fee paid to the board.~~

~~(e) If a suspension overlaps a license renewal period, an individual with a license suspended under this section must comply with the normal renewal procedures in the Act and this chapter; however, the license will not be renewed until subsections (g) and (h) of this section are met.~~

~~(f) An individual who continues to use the titles "Licensed Marriage and Family Therapist," "LMFT," "Provisional Licensed Marriage and Family Therapist," "Provisional LMFT," "Licensed Marriage and Family Therapist Associate," "LMFT Associate," "Provisional Licensed Marriage and Family Therapist Associate," or "Provisional LMFT Associate" after the issuance of a court or attorney general's order suspending the license is liable for the same civil and criminal penalties provided for engaging in the prohibited activity without a license or while a license is suspended as any license holder of the board.~~

~~(g) On receipt of a court or attorney general's order vacating or staying an order suspending a license, the executive director or executive director's designee will issue the affected license to the individual if the individual is otherwise qualified for the license.~~

~~(h) The individual must pay a reinstatement fee set out in §801.18 of this title (relating to Fees) before issuance of the license under subsection (g) of this section.]~~

~~[§801.301 Relevant Factors~~

~~When a licensee has violated the Act or this chapter, three general factors combine to determine the appropriate sanction which include: the culpability of the licensee; the harm caused or posed; and the requisite deterrence. It is the responsibility of the licensee to bring exonerating factors to the attention of the Ethics Committee or administrative law judge. Specific factors are to be considered as set forth herein.~~

~~(1) Seriousness of Violation. The following factors are identified:~~

~~(A) the nature of the harm caused, or the risk posed, to the health, safety and welfare of the public, such as emotional, physical, or financial;~~

~~(B) the extent of the harm caused, or the risk posed, to the health, safety and welfare of the public, such as whether the harm is low, moderate or severe, and the number of persons harmed or exposed to risk; and~~

~~(C) the frequency and time periods covered by the violations, such as whether there were multiple violations, or a single violation, and the period of time over which the violations occurred.~~

~~(2) Nature of the Violation. The following factors are identified:~~

~~(A) the relationship between the licensee and the person harmed, or exposed to harm, such as a dependent relationship of a client counselor, or stranger to the licensee;~~

~~(B) the vulnerability of the person harmed or exposed to harm;~~

~~(C) the degree of culpability of the licensee, such as whether the violation was:~~

~~(i) intentional or premeditated;~~

~~(ii) due to blatant disregard or gross neglect; or~~

~~(iii) resulted from simple error or inadvertence; and~~

~~(D) the extent to which the violation evidences the lack of character, such as lack of integrity, trustworthiness, or honesty.~~

~~(3) Personal Accountability. The following factors are identified:~~

~~(A) admission of wrong or error, and acceptance of responsibility;~~

~~(B) appropriate degree of remorse or concern;~~

~~(C) efforts to ameliorate the harm or make restitution;~~

~~(D) efforts to ensure future violations do not occur; and~~

~~(E) cooperation with any investigation or request for information.~~

~~(4) Deterrence. The following factors are identified:~~

- ~~(A) the sanction required to deter future similar violation by the licensee;~~
- ~~(B) sanctions necessary to ensure compliance by the licensee of other provisions of the Act or this chapter; and~~
- ~~(C) sanctions necessary to deter other licensees from such violations.~~
- ~~(5) Miscellaneous Factors. The following factors are identified:~~
 - ~~(A) age and experience at time of violation;~~
 - ~~(B) presence or absence of prior or subsequent violations;~~
 - ~~(C) conduct and work activity before and following the violation;~~
 - ~~(D) character references; and~~
 - ~~(E) any other factors justice may require.]~~

§801.302 Severity Level and Sanction Guide

The following severity levels and sanction guides are based on the relevant factors in council rules, 22 Texas Administrative Code, §884.20 (relating to Disciplinary Guidelines and General Schedule of Sanctions)~~[§801.301 of this title (relating to Relevant Factors)]~~.

(1) – (5) (No change.)

(6) An administrative penalty may be assessed for any violation, ~~[as determined by the Ethics Committee. An administrative penalty may be assessed]~~ in lieu of, or in addition to, other disciplinary actions.

§801.303 Other Actions

A complaint may be resolved by issuance of a warning letter or a conditional letter of agreement~~[with actions which are not considered formal disciplinary actions. These include: issuance of an advisory notice, warning letter, or informal reminder; issuance of a "Conditional Letter of Agreement;" or other actions as deemed appropriate by the board or the complaint review team. The licensee is not entitled to a hearing on the matters set forth in the notice, letter, reminder, "Conditional Letter of Agreement," or other action but may submit a written response that is included in the complaint record. Such actions may be introduced as evidence in any subsequent disciplinary action involving acts or omissions after receipt of the notice, letter, reminder, "Conditional Letter of Agreement," or other action]~~ which does not involve a formal disciplinary action.

(1) A warning letter informs the licensee of the licensee's duties under the Act, the Council Act, or council rules~~[An advisory notice, warning letter [or informal reminder. An advisory notice, warning letter, or informal reminder informs the respondent of his or her duties under the Act or this chapter, whether the conduct or omission complained of appears to violate such duties;]~~ and whether the council~~[board]~~ has a concern about the circumstances surrounding the complaint.

(2) ~~[A "Conditional Letter of Agreement."]~~ A "Conditional Letter of Agreement" informs the licensee of the licensee's ~~[respondent of his or her]~~ duties under the Act, the Council Act, or council rules ~~[or this chapter]~~, whether the conduct or omission complained of appears to violate such duties, and creating council ~~[board]~~-ordered conditions for the long-term resolution of the issues in the complaint. This "Conditional Letter of Agreement" specifies the immediate disposition of the complaint. The licensee ~~[respondent]~~ is issued the "Conditional Letter of Agreement" by staff ~~[as directed by the complaint review team]~~; a signature of agreement by the licensee ~~[respondent]~~ is ~~[not]~~ required. If the licensee ~~[respondent]~~ fails to comply with all the council ~~[board]~~-ordered conditions in the specified time frame outlined in the "Conditional Letter of Agreement," staff will open a new complaint arising out of the ~~[alleging]~~ non-compliance with a "Conditional Letter of Agreement" or the underlying conduct ~~[and the complaint alleging non-compliance is processed per §801.296 (relating to Complaint Procedures). Any disciplinary action proposed for failure to comply with a "Conditional Letter of Agreement" will be imposed per § 801.293 of this title (relating to Procedures for Imposing Disciplinary Action)].~~

~~[(3) Other actions. A complaint may be resolved with other actions which are not considered formal disciplinary actions.]~~

~~§801.304 Reciprocal Discipline~~

~~(a) Staff will open a complaint upon receipt of a report of disciplinary action against a licensee by another health licensing board in this state or any other jurisdiction.~~

~~(b) The disciplinary action imposed on a licensee who is disciplined by another health licensing board in this state or any other jurisdiction is the disciplinary action applicable to the same conduct or rule violation under board rules.~~

~~(c) A voluntary surrender of a license in lieu of disciplinary action or during an investigation by another health licensing board in this state or any other jurisdiction constitutes disciplinary action under this rule. Staff will open a complaint and the disciplinary action imposed is the disciplinary action applicable under board rules to the alleged conduct as if proved.]~~

§801.305 Schedule of Sanctions

The following standard sanctions shall apply to violations of Texas Occupations Code, Chapter 502 and 22 Texas Administrative Code, Part 35.

Figure 22 TAC §801.305

Rule	Action
801.43(b) Report alleged violations or misrepresentation	Warning Letter
801.43(c) Identify license, status, or other restriction	Warning Letter
801.43(d) Make false statement	Level 5 Reprimand
801.43(g) Make reasonable effort to prevent other's false statement	Warning Letter
801.44(a) Provide services only in the context of a professional relationship	Level 5 Reprimand
801.44(b) Fail to provide written information	Level 5 Reprimand

801.44(c) Fail to obtain appropriate consent or custody order	Level 5 Reprimand
801.44(d) Fail to provide written information regarding confidentiality	Level 5 Reprimand
801.44(e) Refer for pay	Level 3 Administrative Penalty
801.44(f) Exploit trust	Level 4 Probated Suspension
801.44(g) Act to meet personal needs	Level 4 Probated Suspension
801.44(h) Provide services to family, friends, educational or business associates, or others	Level 5 Reprimand
801.44(i) Maintain professional boundaries with clients and former clients	Level 5 Reprimand
801.44(k) Protect individual from harm resulting from group interaction	Warning Letter
801.44(l) Avoid non-therapeutic relationship with clients and former clients	Conditional Letter of Agreement
801.44(m) Bill only for services actually rendered or as agreed in writing	Level 5 Reprimand
801.44(n) End professional relationship when client is not benefitting	Level 4 Probated Suspension
801.44(n) Provide written referral and facilitate transfer to appropriate care	Conditional Letter of Agreement
801.44(o) Technology-assisted services, provide license number and council's contact information	Warning Letter
801.44(p) Provided services within competency and professional standards	Level 4 Probated Suspension
801.44(q) Base services on client assessment, evaluation, or diagnosis	Level 4 Probated Suspension
801.44(s) Promote or encourage illegal use of alcohol or drugs	Level 1 Revocation
801.44(t) Provide services to client served by another	Level 5 Reprimand
801.44(u) Aid or abet or fail to report unlicensed practice	Level 2/3 Suspension
801.44(v) Enter a non-professional relationship with a client's family member or any person who has a personal or professional relationship with a client	Level 5 Reprimand
801.44(w) Provide services while impaired	Level 2/3 Suspension
801.45(b) Sexual contact with a protected person	Level 1 Revocation
801.45(c) Provide services to a former sexual partner	Level 1 Revocation
801.45(d) Therapeutic deception or sexual exploitation	Level 1 Revocation
801.46(a) Inform clients about testing as part of treatment	Warning Letter
801.46(c) Administer and interpret test with appropriate training, experience	Level 4 Probated Suspension
801.47 Use alcohol or drugs, adversely affecting provision of services	Level 2/3 Suspension

801.48(b) Disclose communication, record, or identity of a client	Level 4 Probated Suspension
801.48(c) Comply with statutes or rules, concerning confidential information	Level 4 Probated Suspension
801.48(d) Report or release information as required by statute	Level 4 Probated Suspension
801.48(d)(4) Report sexual misconduct per TCPRC 81.006	Level 5 Reprimand
801.48(e) Keep accurate records	Conditional Letter of Agreement
801.48(g) Maintain confidentiality in how client records are stored or disposed	Level 4 Probated Suspension
801.48(h) Plan for custody of records	Level 5 Reprimand
801.50 Appropriate use of assumed name	Warning Letter
801.53(a) Advertise with false information	Level 5 Reprimand
801.53(d) Advertisement must state license title	Warning Letter
801.53(e) Ad with confusing membership or certification outside field of therapy	Warning Letter
801.53(f) Advertisement must state provisional license	Warning Letter
801.53(g) Reasonable steps to correct or minimize misuse of license certificate or misrepresentation of licensee's services	Warning Letter
801.55(e) Dual relationship: Provide MFT and parenting coordination services	Level 4 Probated Suspension
801.56(d) Dual relationship: Provide MFT and parenting facilitation services	Level 4 Probated Suspension
801.57(d) Dual relationship: Provide any service and custody evaluation	Level 4 Probated Suspension
801.57(e) Offer expert opinion related to child custody	Level 2/3 Suspension
801.57(f) Failure to inform client and proper informed consent	Level 5 Reprimand
801.57(g) Associate must not conduct child custody or adoption evaluations	Level 4 Probated Suspension
801.58(d) Required training for technology-assisted services	Level 5 Reprimand
801.58(h) Failure to inform client and proper informed consent	Level 5 Reprimand
801.58(i) Meet legal requirements of health information privacy and security	Level 4 Probated Suspension
801.143(b) Supervisor may not be employed by supervisee	Level 5 Reprimand
801.143(c) Supervisor may not be related to supervisee	Level 5 Reprimand
801.143(d) Supervisor must timely process and maintain Associate's file	Conditional Letter of Agreement
801.143(e) Supervisor must submit timely written notice when supervision ends	Warning Letter

801.143(f)(1) Supervisor must ensure Associate adheres to all laws and rules	Warning Letter
801.143(f)(2) Supervisor/Associate dual relationship	Level 5 Reprimand
801.143(f)(4) Supervisor must implement Associate's written remediation plan	Level 5 Reprimand
801.143(f)(5) Supervisor must timely submit accurate experience documents	Level 5 Reprimand
801.143(i) Supervisor fails to renew and continues to represent as a supervisor	Level 5 Reprimand
801.143(j) Supervisor with status other than "current, active" or after supervisor status is removed and continues to supervise	Level 4 Probated Suspension
801.143(k) Disciplined supervisor must inform all Associates of council action, refund fees, and assist Associates to find alternate supervision	Level 5 Reprimand
801.143(l) Supervise without being currently approved supervisor	Level 4 Probated Suspension

~~[SUBCHAPTER M LICENSING OF PERSONS WITH CRIMINAL BACKGROUNDS]~~

~~[§801.331 Purpose of Criteria for Licensing of Persons with Criminal Backgrounds]~~

~~The purpose of this subchapter is to comply with Texas Occupations Code, Chapter 53 (relating to Consequences of Criminal Conviction) by establishing guidelines and criteria regarding the eligibility of persons with criminal backgrounds to obtain licenses as an LMFT or LMFT Associate.]~~

~~[§801.332 Criminal Conviction]~~

~~(a) The board may suspend or revoke an existing license, disqualify a person from receiving a license, or deny a person the opportunity to be examined for a license because of a person's conviction of a felony or misdemeanor if the crime directly relates to the duties and responsibilities of a licensee or if the crime involves moral turpitude.~~

~~(b) In considering whether a criminal conviction directly relates to the occupation of a licensee, the board will consider:~~

~~(1) the nature and seriousness of the crime;~~

~~(2) the relationship of the crime to the purposes for requiring a license. The following felonies and misdemeanors relate to the license because these criminal offenses indicate an inability, or a tendency to be unable, to perform as a therapist:~~

~~(A) the misdemeanor of knowingly or intentionally acting as a therapist without a license;~~

~~(B) a misdemeanor or a felony offense under various chapters of the Texas Penal Code;~~

- ~~(i) concerning Title 5, which relates to offenses against the person;~~
 - ~~(ii) concerning Title 7, which relates to offenses against property;~~
 - ~~(iii) concerning Title 9, which relates to offenses against public order and decency;~~
 - ~~(iv) concerning Title 10, which relates to offenses against public health, safety, and morals; and~~
 - ~~(v) concerning Title 4, which relates to offenses of attempting or conspiring to commit any of the offenses of this subparagraph; and~~
- ~~(3) other misdemeanors and felonies the board may consider in order to promote the intent of the Act and this chapter;~~
- ~~(4) the extent to which a license might offer an opportunity to engage in further criminal activity of the same type as that in which the person previously had been involved; and~~
- ~~(5) the relationship of the crime to the ability, capacity, or fitness required to perform the duties and discharge the responsibilities of an LMFT or LMFT Associate. In making this determination, the board will apply the criteria outlined in Texas Occupations Code, Chapter 53.]~~

~~[SUBCHAPTER N INFORMAL SETTLEMENT CONFERENCES]~~

~~[§801.351 Informal Settlement Conference]~~

- ~~(a) Informal disposition of a complaint as prescribed in §801.296 of this title (relating to Complaint Procedures) may be made through an informal settlement conference.~~
- ~~(b) An informal settlement conference is voluntary and is not a prerequisite to a formal hearing.~~
- ~~(c) The executive director will schedule the time, date and place of the informal settlement conference, and provide written notice to the respondent or respondent's attorney.~~
- ~~(1) Notice will be provided no less than ten calendar days before the date of the conference to the last known address of respondent or respondent's attorney by certified or registered mail or by personal delivery. The ten days begin on the date of mailing or delivery. The respondent or respondent's attorney may waive the ten-day notice requirement.~~
- ~~(2) The notice will inform the respondent or respondent's attorney of the name and style of the case, the date, time, and place of the informal settlement conference, and a short statement of the purpose of the informal settlement conference as well as a reference to this section of board rules.~~
- ~~(3) The notice of informal settlement conference includes the following statement in bold, capital letters of at least 10-point type: "Failure to appear. Your failure to appear for the informal settlement conference, in person or by representative, on the above date, at the appointed time and place, will be considered a waiver of your right to an informal settlement~~

conference and a formal hearing. The factual allegations will be deemed admitted as true and the proposed disciplinary action will be imposed by default."

(d) Staff may send notice of the informal settlement conference to the complainant at his or her last known address or by personal delivery. If sent, the notice informs the complainant that he or she may appear and testify or may submit a written statement for consideration at the informal settlement conference.

(e) The respondent's or respondent's attorney's attendance and participation in an informal settlement conference is voluntary.

(f) At least one board member will attend an informal settlement conference.

(g) The board's legal counsel or an attorney from the Office of the Attorney General will attend each informal settlement conference. The board member(s) or staff may ask the attorney for assistance at any time during the informal settlement conference. During periods of consultation between the board member(s), staff, and the board's legal counsel, all other attendees may be asked to leave the room.

(h) The conference is informal and does not follow the procedures established in this chapter for contested cases and formal hearings.

(i) Access to the board's investigative file may be prohibited or limited in accordance with the Public Information Act, the Administrative Procedure Act (APA), and other applicable law.

(j) At the discretion of the board member(s) or executive director, a recording may be made of some or all of the informal settlement conference.

(k) The board member(s), the board's legal counsel, staff, or respondent or respondent's attorney may question witnesses, make relevant statements, present statements of persons not in attendance, and present such other evidence as may be appropriate.

(l) The complainant is not a party in the informal settlement conference but, if attending, will be offered the opportunity to speak. Any written statement submitted by the complainant will be reviewed at the conference.

(m) Subject to the discretion of the board, witnesses or other attendees may be allowed in the meeting only during their testimony.

(n) At the conclusion of the informal settlement conference, the board member(s), the board's legal counsel, or staff may make a proposal for an informal settlement of the complaint.

(o) The respondent or respondent's attorney may either accept or reject the settlement recommendations at the conference.

(1) If the recommendations are accepted, staff will prepare and send an agreed order to the last known address of the respondent or respondent's attorney by certified or registered mail or by personal delivery. The agreed order contains findings of fact and conclusions of law.

~~(A) The respondent must sign and return the order within ten calendar days of his or her receipt of the order. If the respondent or respondent's attorney fails to return the signed order within the stated time period, the inaction will constitute rejection of the settlement recommendations.~~

~~(B) The executive director will place the agreed order on the board agenda; the agreed order constitutes only a recommendation for approval by the informal settlement conference board member(s), board's attorney, or staff.~~

~~(C) Staff will send notice of the board meeting to the last known address of the respondent or respondent's attorney by certified or registered mail or by personal delivery. The meeting notice will include the date, time, and place of the board meeting. Attendance by the respondent or respondent's attorney is voluntary.~~

~~(D) The executive director will present the agreed order with the respondent's signature to the board for review. The board may not change the terms of a proposed order and may only approve or reject an agreed order unless the respondent or respondent's attorney is present at the board meeting and agrees to other terms proposed by the board.~~

~~(i) Upon an affirmative majority vote, the board executes the agreed order approving the accepted settlement recommendations.~~

~~(ii) If the board rejects a proposed agreed order, the matter is referred to the executive director for appropriate action.~~

~~(E) An agreed order is not effective until approved and executed by the board. The order is then effective in accordance with the APA, §2001.054(e).~~

~~(2) If the respondent or respondent's attorney rejects the proposed settlement, the matter will be referred to the executive director for appropriate action.~~

~~(p) A licensee's opportunity for an informal settlement conference under this subchapter satisfies the requirement of the APA, §2001.054(e).~~

~~(q) The board may order a respondent to pay a refund to a consumer as provided in an agreement resulting from an informal settlement conference instead of or in addition to imposing an administrative penalty. The amount of a refund ordered as provided in an agreement resulting from an informal settlement conference may not exceed the amount the consumer paid to the respondent for a service regulated by the Act and this title. The board may not require payment of other damages or estimate harm in a refund order.]~~

~~[SUBCHAPTER O FORMAL HEARINGS]~~

~~[§801.361 Purpose]~~

~~The purpose of this subchapter is to establish rules governing the hearing procedures and practices that are available to persons or parties who request formal hearings from the board. The intended effect of these rules is to supplement the contested case provisions of the Texas Government Code, Chapter 2001, Administrative Procedure Act (APA), the hearing procedures of the State Office of Administrative Hearings (Texas Government Code, Chapter 2003 and~~

Rules of Procedure, 1 Texas Administrative Code, Chapter 155), and to make the public aware of these procedures and practices.]

[§801.362 Proper Notice

(a) For purposes of contested case proceedings before the State Office of Administrative Hearings, proper notice means notice sufficient to meet the provisions of the Texas Government Code, Chapter 2001 and the State Office of Administrative Hearings Rules of Procedure, 1 Texas Administrative Code, Chapter 155.

(b) The notice of formal hearing will include the following statement in bold, capital letters of at least 10-point type:

Attached Graphic]

Figure: 22 TAC §801.362(b)

FAILURE TO APPEAR. YOUR FAILURE TO APPEAR FOR THE FORMAL HEARING, IN PERSON OR BY REPRESENTATIVE, ON THE ABOVE DATE, AT THE APPOINTED TIME AND PLACE, WILL BE CONSIDERED A WAIVER OF YOUR RIGHT TO A HEARING. THE FACTUAL ALLEGATIONS WILL BE DEEMED ADMITTED AS TRUE AND THE PROPOSED DISCIPLINARY ACTION WILL BE IMPOSED BY DEFAULT.

[§801.363 Default

(a) For purposes of this section, default means the failure of the respondent to appear in person, or by legal representative, or by telephone on the day and at the time set for hearing in a contested case or informal settlement conference in accordance with the notice of hearing or notice of informal settlement conference.

(b) Remedies available upon default in a contested case before the State Office of Administrative Hearings (SOAH). The Administrative Law Judge (ALJ) will proceed in the party's absence and such failure to appear entitles the board to seek informal disposition as provided by the Texas Government Code, Chapter 2001. The ALJ will grant any motion by the board to remove the case from the contested hearing docket and allow for informal disposition by the board.

(c) Remedies available upon default in an informal settlement conference. The board may proceed to make such informal disposition of the case as it deems proper, as if no request for hearing had been received.

(d) The board may enter a default judgment by issuing an order against the defaulting party in which the factual allegations in the notice of violation or notice of hearing are deemed admitted as true without the requirement of submitting additional proof, upon the offer of proof that proper notice was provided to the defaulting party.

(e) Motion to set aside and reopen. A timely motion by the respondent to set aside the default order and reopen the record may be granted if the respondent establishes that the failure to attend the hearing was neither intentional nor the result of conscious indifference, and that such failure was due to mistake, accident, or circumstances beyond the respondent's control.

~~(1) The respondent must file a motion to set aside the default order and reopen the record with the board before the time the order of the board becomes final, pursuant to the provisions of the Texas Government Code.~~

~~(2) A motion to set aside the default order and reopen the record is not a motion for rehearing and is not considered a substitute for a motion for rehearing. The filing of a motion to set aside the default order and reopen has no effect on either the statutory time periods for the filing of a motion for rehearing or on the time period for ruling on a motion for rehearing, as provided in the Texas Government Code.~~

~~(f) This subsection also applies to cases where service of the notice of hearing on a defaulting party is shown only by proof that the notice was sent to the party's last known address as shown in the board's records, with no showing of actual receipt by the defaulting party or the defaulting party's agent. In that situation, the default procedures described in subsection (c) of this section may be used if there is credible evidence the notice of hearing was sent by certified or registered mail or personal delivery to the defaulting party's last known address.]~~

~~[§801.364 Action after Hearing~~

~~(a) Reopening of hearing for new evidence.~~

~~(1) The board may reopen a hearing where new evidence is offered which was unobtainable or unavailable at the time of the hearing.~~

~~(2) Staff will reopen a hearing to include such new evidence as part of the record if the board deems such evidence necessary for a proper and fair determination of the case. The reopened hearing will be limited to only such new evidence.~~

~~(3) Staff will send written notice of any reopened hearing to all previously designated parties, by certified or registered mail or personal delivery.~~

~~(b) Final orders or decisions.~~

~~(1) The final order or decision is rendered by the board or its designee.~~

~~(2) All final orders or decisions will be in writing and will set forth the findings of fact and conclusions required by law, either in the body of the order, by attachment, or by reference to an Administrative Law Judge's proposal for decision.~~

~~(3) Unless otherwise permitted by statute or by these sections, all final orders will be signed by the board chair or designee.~~

~~(c) Motion for rehearing. A motion for rehearing is governed by the APA or other pertinent statute and must be filed with the board.~~

~~(d) Appeals. All appeals from final orders or decisions are governed by the APA or other pertinent statute and must be addressed to the board.]~~



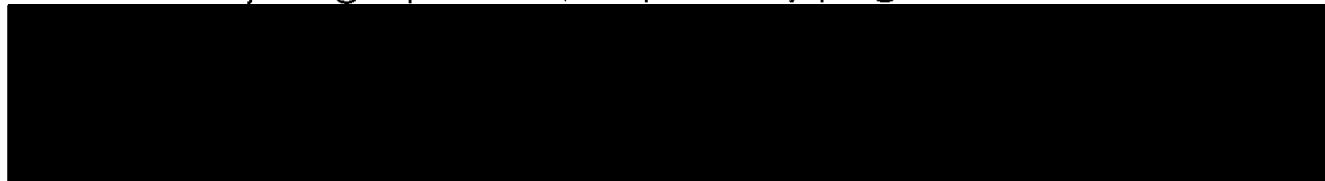
Darrel Spinks <darrel@tsbep.state.tx.us>

Methodology for BHEC Fee Calculations

Darrel Spinks <Executive.Director@tsbep.texas.gov>

Wed, Apr 22, 2020 at 4:00 PM

Cc: Jennifer Noack <jennifer@tsbep.state.tx.us>, Tim Speer <timothy.speer@hhsc.state.tx.us>



Council Members:

As a follow-up to our discussions at the March 2nd Executive Council meeting and some discussion had at the April 17th LMFT board meeting about how BHEC's fees were calculated, I wanted to provide a brief explanation of how we arrived at those figures.

Attached is the fee chart that was considered by the Council at its March 2nd meeting. The "Old Fees" column shows the existing fees if those fees differ from the fees proposed by the Council. If the "Old Fees" column is empty that means the Council is not proposing a change to the existing fee. The column entitled "Base" represents the base fee to be adopted by the Council.

In summary, to ensure we generate enough revenue to meet the requirements of our contingency rider, we:

- added \$20 to all license applications
- standardized the application fee amounts for supervisory status at \$50
- set, or established in the case of Soc. Workers, the renewal fee for supervisory status at \$50
- increased renewal fees below \$135 to that same amount. The one exception to this was LMSW-AP/LCSW renewals...their renewal fee was increased to \$155 because the existing renewal fee for this license is \$20 over and above the existing LBSW/LMSW renewal fee and we wanted to maintain this differential by increasing each by the same amount (\$55).
- We standardized the miscellaneous fees we were all charging and of course the late fees are governed by statute.

Hopefully this will provide you with greater clarification on how we arrived at the figures in our proposed rule, but if not, please feel free to reach out to Ms. Noack or myself for further explanation.

Lastly, I have attached an Excel spreadsheet that I had Ms. Noack to prepare that will allow you to modify fee amounts as you see fit and then show you whether those modified amounts will generate the revenue required by our contingency rider. The fee chart does not include every fee that BHEC charges, but rather focuses on the major revenue generators for the agency and those generators for which we have good data showing what we can expect in terms of future numbers, e.g. LMFT Assoc. Applications received. Hopefully this spreadsheet will provide some measure of clarification as well.

Sincerely,

Darrel D. Spinks

Executive Director

Texas Behavioral Health Executive Council

Texas State Board of Examiners of Psychologists

333 Guadalupe St., Ste. 2-450

Austin, Texas 78701

512-305-7700 office

512-305-7701 fax

P.S. Please feel free to share this email with your fellow board members at your next meeting if they are curious about how BHEC arrived at its proposed fees.

2 attachments



Fee Calculator Spreadsheet for Council.xlsx
11K



Draft Rules for TBHEC - Fee Chart.xlsx
23K

<u>Fees</u>	<u>Total Fee</u>	<u>Old Fees</u>	<u>Base</u>	<u>Texas.gov</u>	<u>OPP</u>
APPLICATION FEES					
Social Workers					
LBSW or LMSW Application	\$ 109.00	\$ 80.00	\$ 100.00	\$ 4.00	\$ 5.00
LCSW Application (LMSW-AP applications no longer accepted)	\$ 129.00	\$ 100.00	\$ 120.00	\$ 4.00	\$ 5.00
Upgrade from LBSW to LMSW	\$ 20.00		\$ 20.00		
Upgrade from LMSW to LMSW-AP/LCSW	\$ 20.00		\$ 20.00		
Independent Practice Recognition	\$ 20.00		\$ 20.00		
Supervisor Status Application	\$ 50.00	\$ 20.00	\$ 50.00		
Temporary License Application	\$ 30.00		\$ 30.00		
Marriage and Family Therapists					
Initial LMFT Associate Application	\$ 69.00	\$ 40.00	\$ 60.00	\$ 4.00	\$ 5.00
Upgrade from LMFT Associate to LMFT	\$ 90.00		\$ 90.00		
LMFT by Endorsement Application	\$ 161.00	\$ 130.00	\$ 150.00	\$ 6.00	\$ 5.00
Supervisor Status Application	\$ 50.00	\$ 20.00	\$ 50.00		
Professional Counselors					
LPC Intern/LPC/Provisional License Application	\$ 221.00	\$ 190.00	\$ 210.00	\$ 6.00	\$ 5.00
Supervisor Status Application	\$ 50.00	\$ 100.00	\$ 50.00		
Art Therapy Designation	\$ 20.00		\$ 20.00		
Psychologists/Psychological Associates/Specialists in School Psychology					
LPA Application	\$ 325.00		\$ 320.00		\$ 5.00
LP Application	\$ 450.00		\$ 445.00		\$ 5.00
LP License Issuance Fee	\$ 381.00		\$ 381.00		
LSSP Application	\$ 280.00		\$ 275.00		\$ 5.00
Temporary License Application	\$ 100.00		\$ 100.00		
RENEWAL FEES					
Social Workers					
LBSW/LMSW Renewal	\$ 141.00	\$ 80.00	\$ 135.00	\$ 4.00	\$ 2.00
LMSW-AP/LCSW Renewal	\$ 163.00	\$ 100.00	\$ 155.00	\$ 6.00	\$ 2.00
Additional Renewal Fee for Independent Practice Recognition	\$ 20.00		\$ 20.00		
Additional Renewal Fee for Supervisor Status	\$ 50.00	\$ -	\$ 50.00		

Duplicate Renewal Permit or License	\$	10.00				
Written Verification of Licensure	\$	10.00				
Written State to State Verification of Licensure	\$	50.00				
Mailing List	\$	10.00				
Returned Check Fee	\$	25.00				
Criminal History Evaluation	\$	150.00				

<u>Board</u>	<u>Fee Amount</u>	<u>Number Issued</u>	<u>Total Revenue</u>
<u>TSBEP</u>			
LPA Application	\$ 320.00	45 \$	14,400.00
LP Application	\$ 445.00	250 \$	111,250.00
LP License Issuance	\$ 381.00	250 \$	95,250.00
LSSP Application	\$ 275.00	190 \$	52,250.00
LPA Renewal	\$ 230.00	425 \$	97,750.00
LP Renewal	\$ 412.00	2500 \$	1,030,000.00
LSSP Renewal	\$ 135.00	1800 \$	243,000.00
<u>LMFT</u>			
LMFT Associate Application	\$ 60.00	251 \$	15,060.00
License Issuance Fee	\$ 90.00	251 \$	22,590.00
LMFT Upgrade Application	\$ 90.00	130 \$	11,700.00
LMFT/LMFT Associate Renewal	\$ 135.00	1600 \$	216,000.00
<u>LPC</u>			
LPC/Provisional/Intern Application	\$ 210.00	3582 \$	752,220.00
LPC Renewal	\$ 135.00	10500 \$	1,417,500.00
<u>LSW</u>			
LBSW/LMSW Application	\$ 100.00	2200 \$	220,000.00
LSW Renewal	\$ 135.00	12500 \$	1,687,500.00
<u>Miscellaneous Fees</u>			
Jurisprudence Exams	\$ 5.00	4277 \$	21,385.00
Reinstatement of License	\$ 500.00	\$	-
Inactive Status Application	\$ 100.00	\$	-

Inactive Renewal	\$	100.00	-
Request to Reactivate License from Inactive	\$	current renewal fee	-
Duplicate License	\$	10.00	-
Duplicate Permit	\$	10.00	-
Verification Fee	\$	10.00	-
State Verification Fee	\$	50.00	-
Criminal History Evaluation	\$	150.00	-
Returned Check Fee	\$	25.00	-
Mailing List	\$	10.00	-
Late Fee expired 90 days or less		1.5 times the base renewal fee	
Late Fee expired more than 90 days		2 times the base renewal fee	
Total	\$		6,007,855.00
Contingency Rider Revenue needed	\$		6,017,084.00
(Miscellaneous Fees make up the difference)			

FY2020 (9/1/19 – 8/31/20)

~~September 6-7, 2019—TSBSWE ISCs/committee/board meeting~~

~~September 11-13, 2019—TSBEPC committees/board meeting~~

OCTOBER 15, 2019—BHEC MEETING

~~October 18-19, 2019—TSBEMFT board/committee meetings~~

~~November 6-8, 2019—TSBEPC committees/board meeting~~

~~November 12-14, 2019—TSBEP ISCs/board meeting~~

~~December 6-7, 2019—TSBSWE ISCs/committee/board meeting~~

JANUARY 14, 2020—BHEC MEETING

~~January 24-25, 2020—TSBEMFT board/committee meetings~~

FEBRUARY 4, 2020—BHEC MEETING

~~February 7, 2020—TSBEPC committees/board meeting~~

~~February 11-13, 2020—TSBEP ISCs/board meeting~~

~~February 27-29, 2020—TAMFT Annual Convention~~

MARCH 2, 2020—BHEC MEETING

~~March 6-7, 2020—TSBSWE ISCs/committee/board meeting~~

~~March 13-22, 2020 SXSX*~~

~~March 14-28, 2020 Rodeo Austin*~~

~~April 17-18, 2020—TSBEMFT board/committee meetings~~

~~April 23-26, 2020—ASPPB Mid-year meeting~~

~~May 12-14, 2020—TSBEP ISCs/board meeting~~

~~May 15, 2020—TSBEPC committees/board meeting~~

~~June 5-6, 2020—TSBSWE ISCs/committee/board meeting~~

~~June 11-14, 2020—Republic of Texas Motorcycle Rally*~~

JUNE 16, 2020—BHEC MEETING

~~July 24-25, 2020 - TSBEMFT board/committee meetings~~

~~August 11-13 2020 - TSBEP ISCs/board meeting~~

AUGUST 28, 2020—BHEC MEETING

*Events that make securing hotel rooms/lodging at state rates difficult.

FY2021 (9/1/20 – 8/31/21)

September 11, 2020 - TSBEP committees/board meeting

September 11-12, 2020 - TSBSWE ISCs/committee/board meeting

September 20-26, 2020 AMFTRB Annual meeting

*October 2-4, 2020 ACL Music Festival**

October 8-10, 2020 – NASWTX and TASP Annual Conventions

*October 9-11, 2020 – ACL Music Festival**

October 14-18, 2020 – ASPPB Annual meeting

October 16-17, 2020 - TSBEMFT board/committee meetings

OCTOBER 27, 2020 – BHEC MEETING

November 11-14, 2020 – TCA Annual Convention

November 12-14, 2020 – TPA Annual Convention

November 2, 2020 - TSBEP committees/board meeting

November 17-19, 2020 - TSBEP ISCs/board meeting

December 4-5, 2020 - TSBSWE ISCs/committee/board meeting

January 12, 2021 - 87th Legislature Convenes

JANUARY 12, 2021 – BHEC MEETING

February 9-11, 2021 - TSBEP ISCs/board meeting

February 25-27, 2021 – TAMFT Annual Convention

MAY 4, 2021 – BHEC MEETING

May 11-13, 2021 - TSBEP ISCs/board meeting

June 1, 2021 – 87th Legislature ends (sine die)

August 10-12, 2021 - TSBEP ISCs/board meeting

AUGUST 24, 2021 – BHEC MEETING

*Events that make securing hotel rooms/lodging at state rates difficult.

FY2022 (9/1/21 – 8/31/22)

September 21-25, 2021 AMFTRB Annual meeting

October 21-23, 2021 – NASWTX Annual Convention

November 2-4, 2021 - TSBEP ISCs/board meeting

November 3-6, 2021 – TASP Annual Convention

February 8-10, 2022 - TSBEP ISCs/board meeting

May 17-19, 2022 - TSBEP ISCs/board meeting

August 16-18, 2022 - TSBEP ISCs/board meeting

FY2023 (9/1/22 – 8/31/23)

November 1-3, 2022 - TSBEP ISCs/board meeting

November 2-4, 2022 – TASP Annual Convention

*Events that make securing hotel rooms/lodging at state rates difficult.