

# **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, M.B.A.  
Ben Morris, M.Ed.  
Jennifer Smothermon, M.A.

## **Texas Behavioral Health Executive Council Meeting Agenda October 27, 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 October 27, 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://zoom.us/j/92273545621> into their web browser or by calling (346) 248-7799 and entering the webinar ID 922 7354 5621. 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.bhec.texas.gov](http://www.bhec.texas.gov) prior to the meeting. A recording of the meeting will be available after the meeting is adjourned. To obtain a recording, please contact the Council's public information officer at [Open.Records@bhec.texas.gov](mailto:Open.Records@bhec.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 [General@bhec.texas.gov](mailto:General@bhec.texas.gov) in advance of the meeting. The written public comments received will be submitted to the council members for their consideration during the meeting, but will not be read aloud.

In the event Governor Greg Abbott's March 13, 2020 disaster declaration is not renewed or expires prior to October 27th, 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. 3-900, Austin, Texas 78701. This location will be open to the public only in the event the March 13<sup>th</sup> 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, E-MAIL: [General@bhec.texas.gov](mailto:General@bhec.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 October 27, 2020 at 9am**

1. Call to Order
2. Roll Call and Certification of Quorum
3. Review and approval of minutes from prior meeting(s).
4. Discussion regarding whether to initiate rulemaking to adopt non-discrimination requirements for licensees or, alternatively, to seek OAG opinion regarding agency's authority to initiate rulemaking under current statutory authority. Discussion regarding non-rulemaking actions that can be taken to preclude discrimination by licensees in the delivery of services.
5. Status report on implementing examination approval for TSBSWE applicants through the ASWB licensing portal.
6. Discussion regarding possible administrative solutions to address licensing backlogs, e.g., extension of application expiration dates, fee waivers.
7. Discussion regarding protocol and methods of returning phone calls and emails. *Discussion to be led by Councilman Francis.*
8. Report from Executive Director on status of agency operations and efficiency.
  - a. Legislative Appropriations Request for 2022-2023 Biennium
  - b. Update regarding enforcement functions, including the methods employed to address the backlog of complaints.
  - c. Discussion concerning measures under consideration or implemented by staff to address the social work and LPC licensing backlog.
  - d. Discussion regarding whether to maintain Q&A feature in virtual council meetings.
  - e. Request for permission to discontinue issuance of emergency temporary licenses under Hurricane Harvey and COVID-19 waivers granted by OOG.

- f. Request for permission to discontinue issuance of renewal permits, and begin directing people to online verification system for proof of license status.

9. Rulemaking - Texas Behavioral Health Executive Council

- a. The proposed changes to 22 TAC 881.21 and 885.1 published in the October 2, 2020 edition of the Texas Register are not yet ripe for consideration at this time; the public comment period for these rules does not close until November 1, 2020.

10. Rulemaking - Texas State Board of Examiners of Marriage and Family Therapists:

- a. There are no rule proposals from this board ripe for consideration at this time. The proposed rule changes to 22 TAC 801.204 and 801.305 have not yet been published in the Texas Register for public comment and the public comment period for the proposed changes to 22 TAC 801.206, which was published in the October 2, 2020 edition of the Texas Register, does not close until November 1, 2020.

11. Rulemaking - Texas State Board of Examiners of Psychologists:

There are no rule proposals from this board ripe for consideration at this time.

12. Rulemaking - Texas State Board of Examiners of Professional Counselors:

- a. Consideration and possible adoption of rule changes to 22 TAC Chapter 681. The rule changes being considered for adoption were published in the July 17, 2020 edition of the Texas Register and public comments were received following publication.
  - i. *These rules have been reviewed and approved by the OOG's Budget and Policy Division, subject to certain non-substantive changes.*
  - ii. *The board is recommending withdrawal of proposed 22 TAC 681.164 due to the need for substantive changes.*
- b. Review and proposal of new rule 22 TAC 681.164, Licensing of Persons with Criminal Convictions.
  - i. *Following withdrawal of the original version of this rule published in the July 17, 2020 edition of the Texas Register, the board recommends re-proposal of the rule with substantive changes to align the rule with the other member board rules.*
- c. Review and proposed repeal of Rule 681.92 located in Title 22, Part 30, Chapter 681 Subchapter F of the Texas Administrative Code; proposed new rule 681.92 located in Title 22, Part 30, Chapter 681 Subchapter C of the Texas Administrative Code.

13. Rulemaking - Texas State Board of Social Worker Examiners:

- a. There are no rule proposals from this board ripe for consideration at this time. The proposed rule changes approved at the Board's October 12<sup>th</sup> meeting have not yet been reviewed by the OOG's Budget and Policy Division or published in the Texas Register for public comment.

14. Report from ad hoc Fee Review Committee.
15. Report from Member Boards regarding current or future issues that may impact the profession or the agency's regulatory functions.
16. Recommendations for agenda items for the next Council meeting.
17. Public Comments – Public Comment is limited to three (3) minutes per person, unless otherwise directed by the presiding officer.
18. Adjournment



**Addendum: Additional Videoconference and Telephone Conference Call Information**

When: Oct 27, 2020 09:00 AM Central Time (US and Canada)

Topic: Texas Behavioral Health Executive Council October 27th, 2020 Meeting

Please click the link below to join the webinar:

<https://zoom.us/j/92273545621>

Or iPhone one-tap :

US: +13462487799,,92273545621# or +16699009128,,92273545621#

Or Telephone:

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

US: +1 346 248 7799 or +1 669 900 9128 or +1 253 215 8782 or +1 646 558 8656 or +1 301 715 8592 or  
+1 312 626 6799

Webinar ID: 922 7354 5621

International numbers available: <https://zoom.us/u/abTndhzvt8>

# TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL



## MEMBERS OF THE COUNCIL

Gloria Z. Canseco, M.A., Chair

Dr.h.c. Sarah Abraham

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Susan Fletcher, Ph.D.

George Francis, IV

Benny W. Morris

Jennifer Smothermon, M.A.

Darrel D. Spinks  
Executive Director

## Texas Behavioral Health Executive Council

October 12, 2020

The Texas Behavioral Health Executive Council met via Zoom video conference in conjunction with the Texas State Board of Social Worker Examiners on October 12, 2020. The following Council members were in attendance: Gloria Canseco, M.A., Chair; Dr. h.c. Sarah Abraham; John Bielamowicz; Timothy Brown, M.S.W.; Susan Fletcher, Ph.D. Herman Adler, M.A.; George Francis, IV, M.B.A.; Ben Morris, M.Ed.; and Jennifer Smothermon, M.A. Also, in attendance was Darrel Spinks, Executive Director and Patrick Hyde, General Counsel. Steve Christopherson, M.S. was absent from the meeting.

The following Board members of the TSBSWE were also in attendance: Tim Brown, M.S.W., Chair; Brian Brumley, Vice-Chair; Megan Graham; Ben Morris; Martha Mosier; Audrey Ramsbacher. Also, in attendance was Alice Bradford, Executive for the board, and Brian Clark, Staff Attorney. Beverly Loss and Mark Talbot were absent from the meeting.

### Monday, October 12, 2020

1. The meeting was called to order at 1:05 p.m. by Ms. Canseco.
2. The Council moved to Item 2, Roll Call and Certification of Quorum. A quorum was seated with Mr. Christopherson absent from the meeting.
3. Ms. Canseco thanked Tim Brown, Chair of the Texas State Board of Social Worker Examiners for taking a week of his vacation to assist staff with the backlog of work.
4. The Council moved to Item 3, Texas State Board of Social Worker Examiners rules:
  - a. Consideration of adoption of rules from the Texas State Board of Social Worker Examiners that were published in the July 17, 2020 *Texas Register* with changes that were recommended by the OOG's Budget and Policy Division.

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(Phone) 512-305-7700, (Fax) 512-305-7701

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A MOTION WAS MADE BY DR. FLETCHER AND SECONDED BY DR. ABRAHAM TO APPROVE THE CHANGES TO THE RULES. THE VOTE CARRIED WITH MR. CHRISTOPHERSON ABSENT FROM THE VOTE.

- b. Withdraw and Repropose Board rule §781.420, Licensing of Persons with Criminal Convictions.

A MOTION WAS MADE BY DR. ABRAHAM AND SECONDED BY MS. SMOTHERMON TO APPROVE THE CHANGES TO THE RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

- c. The Council considered proposed rule changes to the following rules to repeal the requirement that supervision plans be submitted and approved by the agency:
  - i. §781.102, Definitions.
  - ii. §781.302, The Practice of Social Work.
  - iii. §781.401, Qualifications for Licensure.
  - iv. §781.402, Clinical Supervision for LCSW and Non-Clinical Supervision for Independent Practice Recognition.
  - v. §781.403, Independent Practice Recognition (Non-Clinical).
  - vi. §781.404, Recognition as a Council-approved Supervisor and the Supervision Process.
  - vii. §781.406, Required Documentation of Qualifications for Licensure.

A MOTION WAS MADE BY MS. SMOTHERMON AND SECONDED BY MR. BIELAMOWICZ TO APPROVE THE PROPOSED RULE CHANGES. THE VOTE WAS APPROVED UNANIMOUSLY.

- 5. The Council moved to Item 4, Public Comment.
  - a. Will Francis – spoke against changes to Board §781.301, Code of Conduct and §781.305, Sexual Misconduct.
  - b. Sandra Martin – spoke regarding the Christian Counselors of Texas.
  - c. Christina Rodriguez – spoke regarding inactive status questions.
  - d. Robin Gould – spoke regarding status of her application.
  - e. Janet Finch – speaking regarding supervision plans.

- f. Gina Guerra – spoke regarding status of her application.
  - g. Olga Escobedo – spoke regarding documents received in the office.
  - h. Norma Reed – spoke regarding the licensing backlog and supported changes to the supervision plan. She also stated that she was against changes to Board §781.301.
  - i. Teresa Adcock – spoke regarding question of exam eligibility.
  - j. Tracy Abzug – spoke against changes to §781.301, and in favor of the supervision plans changes.
  - k. Alyssa Karsagi- spoke regarding child custody evaluation.
  - l. Brandi Felderhoff – spoke against changes to §781.301 and supervision plans.
  - m. Evelyn Fabian – spoke regarding backlog of application.
  - n. Hannah Arlette – spoke regarding child custody evaluations.
  - o. Tara Coronado – spoke regarding an email she sent for the Council meeting on October 27, 2020.
  - p. Sarah Edwards – spoke regarding rule change for §781.301 and §781.305.
  - q. Kenda Dalrymple – spoke regarding §781.301, and the need to get the statute changed.
  - r. Brenda James – spoke regarding supervision plans.
6. Ms. Canseco addressed future Council agenda items:
- a. An agenda topic concerning whether to initiate rulemaking to adopt non-discrimination requirements for licensees would be added to the Council’s October 27<sup>th</sup> agenda; and
  - b. An agenda topic concerning possible administrative solutions for the licensing backlog (e.g., extension of application expiration dates, fee waivers) would be added to the Council’s October 27<sup>th</sup> agenda.
7. The Council and Board meeting were adjourned at 3:10 p.m. by Ms. Canseco.

**TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL MEETING**  
**SUMMARY OF MINUTES**  
**August 28, 2020**

Chair Gloria Canseco called the meeting of the Texas Behavioral Health Executive Council to order at 9:03 a.m.

Chair Gloria Canseco moved to item 2, Roll Call and Certification of Quorum. Chair Gloria Canseco and Council members John Bielowicz, Timothy Brown, Steve Christopherson, Dr. Susan Fletcher, and Jennifer Smothermon were present. Sarah Abraham joined the meeting at 9:06 a.m. George Francis and Ben Morris were absent. A quorum was seated.

Chair Gloria Canseco moved to item 3, Public Comments. The Council heard public comments from Alyssa Karsagi, Hannah Falkenburg, Elizabeth Vecseri, Stephanie G., Jim Craig (shared a video but the sound did not work), Wanda "Susie" Patrick, Sandra Martin, LPC, Will Francis, Hannah Ariette, Heather Huber, Shirley Vega, Tara Cornado Cunningham, Bonny Cotlar, and Shana Balkin. Chair Gloria Canseco read into the record written comments from Carolyn Miller and Brenda M. that were posted in the Q&A feature of the Zoom meeting. Executive Director Darrel Spinks stated that two other written comments were submitted to the Council members prior to the meeting.

Chair Gloria Canseco moved to item 4, Review and approval of minutes from prior meeting(s). Council member Sarah Abraham, seconded by Timothy Brown, made a motion to approve the minutes of the June 16, 2020 and the July 28, 2020 meetings as presented. Motion passed by unanimous vote.

Chair Gloria Canseco moved to item 5, Review sample status report on complaints. Executive Director Darrel Spinks reported that this matter had not been completed and would be moved to a future agenda.

Chair Gloria Canseco moved to item 6, Discussion regarding possible solutions to TSBSWE licensing backlog, including whether to move forward with negotiations with ASWB on processing social worker applications for examination approval through the ASWB licensing portal. (a.) Report from Executive Director regarding alternative vendors to ASWB, as well as past experience with ASWB by other jurisdictions currently utilizing the ASWB licensing portal.

Executive Director Darrel Spinks provided a follow-up report from the previous Council meeting and addressed the Council's questions and concerns regarding working with ASWB and other possible vendors providing similar services. Executive Director Spinks and staff provided feedback from other states utilizing the ASWB licensing portal. Executive Director Spinks reported that no other vendors were found with the same level of service. Executive Director Spinks also addressed the length of the contract and worked with ASWB, who was agreeable to a one-year term contract. Council member Timothy Brown reported that the Texas State Board of Social Worker Examiners held a special meeting and discussed the concerns raised during the previous Council meeting. The Board voted unanimously to go with ASWB. On the Council's direction, staff will move forward to pursue the contract. Council member Steve Christopherson, seconded by Dr. Susan Fletcher, made a motion to authorize Executive Director Spinks to execute

a one-year term contract with ASWB for its licensing portal service. Motion passed by unanimous vote.

Chair Gloria Canseco moved to item 7, Discussion regarding 1) the need for renewal certificates/permits given the availability of the same information through the public search feature of the online licensing system, 2) the potential cost savings if the agency stops issuing renewal certificates/permits, and 3) the increased risk of forgery or misappropriation associated with printed renewal certificates/permits. Executive Director Darrel Spinks suggested that the Council consider changes to the rules to remove the printing and mailing requirement of license renewal certificates/permits. The Council discussed the pros and cons of this proposal and directed Executive Director Spinks to move forward with drafting the necessary rule changes.

Chair Gloria Canseco moved to item 8, 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. Executive Director Spinks reported that the transition is running smoothly and is on schedule, office space is secured, and purchases are in place. Mr. Spinks reported that staff is ready to begin operations on September 1. The Council members offered praise for all the efforts to get the new agency operational.

b. Letter to LBB requesting UB authority, dated August 10, 2020. Executive Director Spinks stated that the Council has not received a response to the letter sent to the Legislative Budget Board (LBB).

c. New policy analyst has been assigned to the Council by the OOG Budget and Policy Division. Executive Director Spinks reported that Scot Kibbe in the Office of the Governor (OOG) has been assigned as the new policy analyst.

Chair Gloria Canseco moved to item 9, Rulemaking - Texas Behavioral Health Executive Council.

a. Review and consideration of proposed rule change to 22 TAC 881.21, Petition for Rulemaking. Executive director Darrel Spinks outlined the proposed rule. Council member Timothy Brown, seconded by Sarah Abraham, made a motion to approve the rule as presented. Motion passed by unanimous vote.

b. Review and consideration of proposed rule change to 22 TAC 883.1, Renewal of a License. Council member Jennifer Smothermon outlined the proposed rule regarding whether to allow for an extension of active status for licensees unable to complete continuing education during their renewal period due to extraordinary circumstances. The Council discussed whether the proposed rule was necessary and the effects of adopting this rule. Council member Steve Christopherson, seconded by Sarah Abraham, made a motion to reject the proposed rule and make no changes to the existing rule. The motion passed by a vote of 6-1. Council member Smothermon was opposed. The Council may revisit this issue in the future.

Chair Gloria Canseco moved to item 10, 1. Rulemaking - Texas State Board of Examiners of Marriage and Family Therapists.

a. Consideration and possible adoption of rule changes to 22 TAC, Part 35, Chapter 801, as recommended by the Texas State Board of Examiners of Marriage and Family Therapists. The rule changes being considered for adoption were published in the July 10, 2020 edition of the Texas Register and public comments were received following publication.

i. These rules have been reviewed by the OOG's Budget and Policy Division, and the board is recommending adoption of these rules with the changes suggested by the OOG .

ii. Proposed 22 TAC 801.204 has been reviewed by the OOG's Budget and Policy Division and the board is recommending withdrawal of the rule due to the need for substantive changes.

iii. Proposed 22 TAC 801.58 has been reviewed by the OOG's Regulatory Compliance Division and disapproved in part; the board is recommending adoption of the rule with changes acceptable to the OOG's Regulatory Compliance Division.

Executive Director Darrel Spinks provided a brief overview of the rules. Council member Jennifer Smothermon, seconded by Steve Christopherson, made a motion to withdraw rule 801.204 as originally proposed in the July 10, 2020 edition of the Texas Register, and adopt the remaining proposed repeals and rules changes published in the July 10 edition of the Texas Register with the changes recommended from the Office of the Governor. Motion passed by unanimous vote.

b. Review and proposal of rule change to 22 TAC 801.204, Licensing of Military Service Members, Military Veterans, and Military Spouses.

i. Following withdrawal of the original version of this rule published in the July 10, 2020 edition of the Texas Register, the board recommends reproposal of the rule with substantive changes acceptable to the OOG's Budget and Policy Division.

Council member Dr. Susan Fletcher, seconded by Steve Christopherson, made a motion to approve the reproposal of the rule as presented. Motion passed by unanimous vote.

c. Review and proposal of new rule 22 TAC 801.206, Licensing of Persons with Criminal Convictions.

i. This rule is a revised version of the same rule returned to the board for further review and consideration by the Council at its June 16th meeting.

ii. This rule has been reviewed and approved by the OOG's Budget and Policy Division. Council member John Bielamowicz, seconded by Sarah Abraham, made a motion to approve the proposal of the rule as presented. Motion passed by unanimous vote.

d. Review and proposal of rule change to 22 TAC 801.305, Schedule of Sanctions.

i. If approved by the Council, this proposed change would not be published in the Texas Register until the adoption of the same rule (but different version) under paragraph (a) becomes effective.

Council member Jennifer Smothermon provided a brief explanation of the proposed changes. Council member Timothy Brown, seconded by Steve Christopherson, made a motion to approve the proposal of the rule as presented. Motion passed by unanimous vote.

Chair Gloria Canseco moved to item 11, Rulemaking - Texas State Board of Examiners of Psychologists.

a. Consideration and possible adoption of rule changes to 22 TAC, Part 21, as recommended by the Texas State Board of Examiners of Psychologists. The rule changes being considered for adoption were published in the July 10, 2020 edition of the Texas Register and public comments were received following publication.

i. These rules have not been reviewed by the OOG's Budget and Policy Division at the time of publication of this agenda and may not be adopted unless approved prior to the meeting.

Executive Director Darrel Spinks provided a brief overview of the rules. Council member John Bielamowicz, seconded by Jennifer Smothermon, made a motion to adopt the rules as presented with the changes recommended by the Governor's Office, decline to adopt rule 465.5, and direct Executive Director Spinks to assist the Texas State Board of Examiners of Psychologists with developing acceptable rule language for rule 465.5. Motion passed by unanimous vote.

Chair Gloria Canseco moved to item 12, Rulemaking - Texas State Board of Examiners of Professional Counselors. There are no rule proposals from this board ripe for consideration at this time. The proposed rule changes published in the July 17, 2020 edition of the Texas Register have not yet been reviewed by the OOG's Budget and Policy Division and the board has not met to consider the public comments received or make recommendations in accordance with 22 TAC 881.20. Chair Gloria Canseco passed this item on the agenda.

Chair Gloria Canseco moved to item 13, Rulemaking - Texas State Board of Social Worker Examiners. There are no rule proposals from this board ripe for consideration at this time. The proposed rule changes published in the July 17, 2020 edition of the Texas Register have not yet been reviewed by the OOG's Budget and Policy Division and the board has not met to consider the public comments received or make recommendations in accordance with 22 TAC 881.20. Chair Gloria Canseco passed this item on the agenda.

Chair Gloria Canseco moved to item 14, Report from ad hoc Fees Committee. Council member John Bielamowicz reported that staff is sending a letter to the stakeholders for input on the fees. The work of the committee awaits that response. This item will be added to the next agenda.

Chair Gloria Canseco moved to item 15, Discussion concerning the potential impact the COVID-19 pandemic may have on future council and board meetings. Chair Canseco asked staff how they were dealing with the pandemic and issues with work and working from home. The Council members discussed the Council's process for conducting meetings and receiving meeting materials in the future.

Chair Gloria Canseco moved to item 16, Report from Member Boards regarding current or future issues that may impact the profession or the agency's regulatory functions. For the Texas State Board of Social Worker Examiners, Council member Timothy Brown reported that the board's backlog issue is being addressed. For the Texas State Board of Examiners of Psychologists, Council member Dr. Susan Fletcher reported all is running smoothly. For the Texas State Board of Examiners of Professional Counselors, Council member Steve Christopherson reported that staff has made great strides on addressing concerns and the board will meet on September 11, 2020. There was no report for the Texas State Board of Examiners of Marriage and Family Therapists.

Chair Gloria Canseco moved to item 17, Recommendations for agenda items for the next Council meeting. Timothy Brown reported that this may be his last meeting on the Council as his term expires on his board. Steve Christopherson's and Jennifer Smothermon's terms are expiring on their current boards removing them from the Council.

Chair Gloria Canseco moved to item 18, Adjournment. Council member Dr. Susan Fletcher, seconded by Steve Christopherson, made a motion to adjourn. Motion passed by unanimous vote. Chair Canseco adjourned the meeting at 12:00 p.m.



Gloria Canseco, Presiding Officer  
Texas Behavioral Health Executive Council

DRAFT

[<<Prev Rule](#)[Next Rule>>](#)

# Texas Administrative Code

[TITLE 22](#)

EXAMINING BOARDS

[PART 34](#)

TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS

[CHAPTER 781](#)

SOCIAL WORKER LICENSURE

[SUBCHAPTER B](#)

CODE OF CONDUCT AND PROFESSIONAL STANDARDS OF PRACTICE

[RULE §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.

(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.

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**Source Note:** The provisions of this §781.201 adopted to be effective January 27, 2011, 36 TexReg 242; amended to be effective March 28, 2013, 38 TexReg 1977

[List of Titles](#)[Back to List](#)[HOME](#)[TEXAS REGISTER](#)[TEXAS ADMINISTRATIVE CODE](#)[OPEN MEETINGS](#)

# Texas Register

TITLE 22 EXAMINING BOARDS  
PART 34 TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS  
CHAPTER 781 SOCIAL WORKER LICENSURE  
SUBCHAPTER B CODE OF CONDUCT AND PROFESSIONAL STANDARDS OF PRACTICE  
RULE §781.201 Code of Conduct  
ISSUE 07/17/2020  
ACTION Proposed Repeal

Preamble

Texas Admin Code  
Rule

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The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 29, 2020

**TRD-202002648**

Darrel D. Spinks

Executive Director

Texas State Board of Social Worker Examiners

Earliest possible date of adoption: August 16, 2020

For further information, please call: (512) 305-7706

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[Next Page](#)

[Previous Page](#)

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[Back to List of Records](#)

[HOME](#)

[TEXAS REGISTER](#)

[TEXAS ADMINISTRATIVE CODE](#)

[OPEN MEETINGS](#)

# Texas Register

TITLE 22 EXAMINING BOARDS  
PART 34 TEXAS STATE BOARD OF SOCIAL WORKER EXAMINERS  
CHAPTER 781 SOCIAL WORKER LICENSURE  
SUBCHAPTER B RULES OF PRACTICE  
RULE §781.301 Code of Conduct  
ISSUE 07/17/2020  
ACTION Proposed

## Preamble

## Texas Admin Code Rule

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.

(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.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on June 29, 2020

**TRD-202002656**

Darrel D. Spinks

Executive Director

Texas State Board of Social Worker Examiners

Earliest possible date of adoption: August 16, 2020

For further information, please call: (512) 305-7706

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[Next Page](#)

[Previous Page](#)

[Re-Query Register](#)

[Back to List of Records](#)

[HOME](#)

[TEXAS REGISTER](#)

[TEXAS ADMINISTRATIVE CODE](#)

[OPEN MEETINGS](#)

*§781.301.Code of Conduct.*

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]~~ sex; race; color; religion; national origin; ~~[disability; sexual orientation; gender identity and expression;]~~ or political affiliation.

Occ. Code Sec. 505.451. GROUNDS FOR DISCIPLINARY ACTION.

The executive council shall take disciplinary action under Subchapter G, Chapter 507, against a person for:

(13) refusing to perform an act or service within the scope of the license holder's license solely because of the recipient's age, sex, race, religion, national origin, color, or political affiliation; or

The changes reflected herein were adopted based upon the OOG's comments following the required review by the Governor's Office.

STATE of TEXAS  
HOUSE of REPRESENTATIVES



SARAH DAVIS  
DISTRICT 134  
HARRIS COUNTY

October 15, 2020

Ms. Gloria Canesco  
Presiding Officer  
Texas Behavioral Health Executive Council  
333 Guadalupe Street, Tower 3, Room 900  
Austin, TX 78701

**RE: Removal of Gender, Disability, and Sexual Orientation Protections from Social Work Code of Conduct**

Dear Ms. Canesco:

I write with extreme concern regarding the Texas Behavioral Health Executive Council's (BHEC) and Texas State Board of Social Worker Examiners' modifications to the social worker code of conduct that removed protections for gender, disability, sexual orientation, and gender identity and expression. These changes will jeopardize access to care and increase stigma for these vulnerable groups. Further, the process by which BHEC stripped these protections from its rule draft likely violated state law. I strongly suggest that BHEC reinstate these protections in a revised rule draft and that the agency publish the revised draft in accordance with normal procedures required by statute.

From a policy perspective, removing these protections will allow continued discrimination against women, individuals with disability, and LGBTQ individuals and deter them from seeking mental health care. These groups already face higher risks of mental and behavioral health conditions.<sup>1</sup> The COVID-19 pandemic has only increased the risk of mental health conditions.<sup>2</sup> In addition, Texas faces a massive mental health professional shortage across the state.<sup>3</sup> Allowing discrimination against these individuals will increase stigma and erode their already limited access to providers.

This ill-informed policy change is also troubling from a legal perspective, because the change likely violated the Texas Open Meetings Act. On October 12, 2020, BHEC held a public meeting pursuant to a previously posted agenda, which included an item to "review changes suggested by the OOG's Budget and Policy Division to the proposed rules published in the July 17, 2020 edition of the Texas Register and recommend to the Council for adoption at the September 11 regular meeting."<sup>4</sup> The agenda and previously posted materials included adopted rules with comments from Governor's Office staff, including a Code of Conduct for social workers.<sup>5</sup> In relevant part, the Section 781.301 of the adopted rule stated:

**Capitol:**  
P.O. Box 2910  
Austin, Texas 78768-2910  
(512) 463-0389

**Committees:**  
Appropriations • Insurance  
**Email:** Sarah.Davis@house.texas.gov

**District:**  
6300 West Loop South, Suite 140  
Bellaire, Texas 77401  
(713) 664-7095



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.<sup>6</sup>

Notably, the posted agenda and materials included no notice of revision to this section of the rules,<sup>7</sup> and no comments from Office of the Governor staff on the adopted rules indicated that this section would be modified.<sup>8</sup> Further, comments by agency staff indicate these comments were provided to BHEC staff by email on October 9, three days in advance of the meeting.<sup>9</sup>

Nonetheless, at BHEC's meeting, agency staff recommended and the board approved a modification to Section 781.301 to strike protections for "gender" and substitute "sex", and strike "disability; sexual orientation; and gender identity and expression."<sup>10</sup> Agency staff recommended and the board approved identical conforming changes to Section 505.451 of the adopted rule, governing grounds for disciplinary action for licensees.<sup>11</sup>

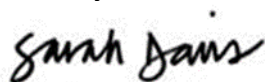
As you may be aware, Section 551.041 of the Open Meetings Act requires governmental bodies to publicly post a written notice of the date, hour, place, and subject of a meeting held by that body. "Notices must sufficient to apprise the general public of the subjects to be considered during the meeting."<sup>12</sup> On March 16, 2020, Governor Abbott granted<sup>13</sup> a request by the Attorney General to suspend certain requirements of the Open Meetings Act in response to the COVID-19.<sup>14</sup> However, Section 551.041 requirements governing public posting of notices, including sufficient notice of the subject of meetings by governmental bodies, were not suspended.<sup>15</sup> Please note that governmental actions that violate the sufficient notice requirement are voidable.<sup>16</sup>

As previously mentioned, BHEC posted a notice and materials which made no mention of the Board's intention to modify protections for gender, disability, sexual orientation, and gender expression or identity in the adopted rule.<sup>17</sup> BHEC took action on these modifications, which were not mentioned in the original posting.<sup>18</sup> As such, I believe this action may violate the Open Meetings Act.

In sum, removing these protections from the code of conduct will increase stigma for vulnerable groups, which will only serve to discourage them from seeking care. Moreover, the process for adopting these changes lacked transparency and may violate state law. Accordingly, I urge BHEC to reinstate these protections in a revised rule draft and to post the draft rules for public comment.

Thank you for your attention in this urgent matter. Should you have any questions or require additional clarification, please do not hesitate to contact my office at 512-463-0389.

Sincerely,



Representative Sarah Davis  
House District 134

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<sup>1</sup> See, e.g., CHRISTY MALLORY, ET AL., WILLIAMS INST. THE IMPACT OF STIGMA AGAINST LGBT PEOPLE IN TEXAS (April 2017), <https://williamsinstitute.law.ucla.edu/publications/impact-lgbt-discrimination-tx/>.

<sup>2</sup> See, e.g., Nirmita Panchal, et al., Kaiser Family Found., Issue Brief, *The Implications of COVID-19 for Mental Health and Substance Abuse* (2020) <https://www.kff.org/coronavirus-covid-19/issue-brief/the-implications-of-covid-19-for-mental-health-and-substance-use/>.

<sup>3</sup> See HPSA FIND, HEALTH RESOURCES & SERVS. ADMIN., <https://data.hrsa.gov/tools/shortage-area/hpsa-find> (last visited Oct. 14, 2020).

<sup>4</sup> Texas Behavioral Health Executive Council Meeting Agenda October 12, 2020, [https://www.bhec.texas.gov/wp-content/uploads/2020/10/Agenda\\_BHEC-2020October.pdf](https://www.bhec.texas.gov/wp-content/uploads/2020/10/Agenda_BHEC-2020October.pdf) [hereinafter “Agenda”].

<sup>5</sup> *Id.*

<sup>6</sup> See *Id.* at 11.

<sup>7</sup> See *Id.*

<sup>8</sup> See *Id.*

<sup>9</sup> National Association of Social Workers Texas Chapter, *TSBSWE and BHEC 10 12 2020*, YouTube, (Oct. 13, 2020) (recording discussion of proposed modifications to rules at 26:25) [hereinafter “Meeting Recording”].

<sup>10</sup> See *Id.*

<sup>11</sup> See *Id.*

<sup>12</sup> OFF. OF THE ATT’Y GEN., OPEN MEETINGS ACT HANDBOOK 31 (2020), [https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/openmeetings\\_hb.pdf](https://www.texasattorneygeneral.gov/sites/default/files/files/divisions/open-government/openmeetings_hb.pdf) [hereinafter “Open Meetings Act Handbook”].

<sup>13</sup> Press Release, Office of the Texas Governor, Governor Abbott Allows Virtual and Telephonic Open Meetings to Maintain Government Transparency (Mar. 16, 2020), <https://gov.texas.gov/news/post/governor-abbott-allows-virtual-and-telephonic-open-meetings-to-maintain-government-transparency>.

<sup>14</sup> Open Meetings Laws Subject to Temporary Suspension, Office of the Texas Attorney General, <https://www.texasattorneygeneral.gov/sites/default/files/images/admin/2020/Press/Open%20Meeting%20Laws%20Subject%20to%20Temporary%20Suspension.pdf> (last visited Oct. 14, 2020).

<sup>15</sup> See *Id.*

<sup>16</sup> TEX. GOV’T CODE §551.141; Open Meetings Act Handbook, *supra*, Note 12 at 73.

<sup>17</sup> See Agenda, *supra*, Note 4 at Page 11.

<sup>18</sup> See Meeting Recording, *supra*, Note 9.



# TEXAS HOUSE *of* REPRESENTATIVES

**Mary E. González**

*State Representative, District 75*

October 15, 2020

Texas State Board of Social Work Examiners  
8407 Wall St.  
Austin, TX 78754

Dear Texas State Board of Social Work Examiners,

It came to my attention that you made an alteration to your code of conduct<sup>1</sup> in response to an informal request from the Governor's office, and social workers are no longer prohibited from refusing their services on the basis of "disability" "sexual orientation" and "gender identity and expression." This was an unnecessary change to a well established rule. I am worried that the board's decision will result in costly legal fees because the proposed rule change was not posted in the Texas Register. Due to our current budget constraints, the state must act with caution and actively avoid taking any action that could result in litigation. Furthermore, this is a discriminatory act against individuals with disabilities and the LGBTQ community and incongruous with the spirit of the profession of social work. I respectfully request that you reverse this rule change and reinstate the former language of the Texas Social Worker's Code of Conduct.

The existing substance of the code of conduct was well within the State Board of Social Work Examiners' scope of authority to rule make on. It was noted during the meeting that the language of the code of conduct rule did not exactly match the statutory grounds for disciplinary action,<sup>2</sup> but there was no need for correction because agency rules can be more expansive than statute, as long as they do not conflict with statute. Moreover, the board is charged with making rules regarding the "standards of care and ethical practice for social work"<sup>3</sup> and as such, should be elevating the practice of social work, not rolling nondiscrimination protections back. Nondiscrimination on the basis of disability, sexual orientation, and gender identity and expression are well established components of the ethical practices of social workers; they were added to the state code of conduct in 2012 and are in accordance with the National Association of Social Workers' Code of Ethics.<sup>4</sup>

The intent to make this change to the code of conduct should have been published in the Texas Register, pursuant to statutory requirements and supported by case law, because the proposed

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<sup>1</sup> Tex. Admin. Code, § 781.201.

<sup>2</sup> Tex. Occ. Code, § 505.451.

<sup>3</sup> Tex. Occ. Code, § 505.2015.

<sup>4</sup> National Association of Social Workers' Code of Ethics, <https://www.socialworkers.org/About/Ethics/Code-of-Ethics/Code-of-Ethics-English>.



# TEXAS HOUSE *of* REPRESENTATIVES

**Mary E. González**

*State Representative, District 75*

change would affect individuals who would not have been impacted by the rule as proposed.<sup>5</sup> This unanticipated change would substantially affect the ability of individuals with disabilities or individuals who identify as LGBTQ to access social workers' services.

This rule change undermines very foundation upon which social work is built. As a part of your legal and ethical duty, I urge you to reverse this rule change and reinstate the former Texas Social Worker's Code of Conduct. Please let me know if you have any questions.

Sincerely,

A handwritten signature in black ink that reads "Mary E. González". The signature is written in a cursive style.

Mary E. González, PhD  
Chair, Texas House LGBTQ Caucus  
Texas State Representative, House District 75

cc Texas Behavioral Health Council

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<sup>5</sup> See Tex. Gov't Code § 2001.035; *Tex. Workers' Comp. Comm'n v. Patient Advocates of Tex.*, 136 S.W.3d 643 (Tex. 2004); *State Bd. of Ins. v. Deffebach*, 631 S.W.2d 794 (Tex. App.—Austin 1982, writ ref'd n.r.e.). Texas Register, <https://www.sos.state.tx.us/texreg/archive/July172020/index.html>.



# The Senate of The State of Texas

## Senator José Menéndez

District 26

October 15, 2020

Governor Abbott  
Office of the Governor  
P.O. Box 12428  
Austin, Texas 78711-2428

Presiding Officer Gloria Canseco  
Texas Behavioral Health Executive Council  
333 Guadalupe St., Ste. 3-900  
Austin, Texas 78701

Presiding Officer Timothy Brown  
Texas State Board of Social Work Examiners  
333 Guadalupe St., Ste. 3-900  
Austin, Texas 78701

Dear Governor Abbot, Presiding Officer Canseco and Presiding Officer Brown,

I am writing today to express my concern about the Texas State Board of Social Work Examiners vote to change its code of conduct which establishes when a social worker may refuse to serve someone. The newly adopted code would no longer prohibit social workers from turning away clients on the basis of disability, sexual orientation and gender identity. This change is on its face discriminatory and will prevent some of our most vulnerable Texans to access the proper and needed mental health care that social workers provide.

In a study done by the United States Health Resources and Services Administration, officials found that more than 100 Texas counties have a shortage of social workers and other mental health professionals. This change will continue to limit the work of these individuals and especially impact LGBTQIA clients' access to mental health services. LGBTQIA community are at risk for high trauma and taking away their access to mental health services with detrimentally impact these individuals as they are seeking assistance. A lack of providers combined with the license to discriminate, not only leads to bad outcomes, but tragic consequences for members of the LGBTQIA community.

**CAPITOL OFFICE:**

P.O. Box 12068  
Austin, Texas 78711  
(512) 463-0126  
Fax: (512)-463-2114  
1-888-279-0648

**E-MAIL: [jose.menendez@senate.state.tx.us](mailto:jose.menendez@senate.state.tx.us)**

**Chairman Senate Hispanic Caucus**  
**Committees: Administration • Business & Commerce • Higher Education**  
**Intergovernmental Relations • Redistricting • Veterans Affairs & Border Security**

**DISTRICT OFFICE:**

4522 Fredericksburg Rd., Ste. A-22  
San Antonio, Texas 78201  
(210) 733-6604  
Fax: (210) 733-6605



# The Senate of The State of Texas

## Senator José Menéndez

District 26

Medical professional should not be allowed to discriminate a person based on who they are. This profession is at its core, meant to help and provide care to those who need it most – not to blatantly discriminate, especially in regard to a person's mental health. I am urging the board to reconsider this change in the code of conduct and restore the original code which provided protections for the LGBTQIA community and individuals with disabilities. I am also urging the board to follow the proper processes and take public comments before an adoption of rules, which did not occur during this change. When it comes to the health of any Texan, we should be prioritizing their needs, not encouraging discrimination nor intolerance toward any community.

Sincerely,

A handwritten signature in black ink, appearing to read "Jose Menendez".

State Senator José Menéndez  
District 26

**CAPITOL OFFICE:**

P.O. Box 12068  
Austin, Texas 78711  
(512) 463-0126  
Fax: (512)-463-2114  
1-888-279-0648

E-MAIL: [jose.menendez@senate.state.tx.us](mailto:jose.menendez@senate.state.tx.us)

Chairman Senate Hispanic Caucus  
Committees: Administration • Business & Commerce • Higher Education  
Intergovernmental Relations • Redistricting • Veterans Affairs & Border Security

**DISTRICT OFFICE:**

4522 Fredericksburg Rd., Ste. A-22  
San Antonio, Texas 78201  
(210) 733-6604  
Fax: (210) 733-6605



October 15, 2020

Darrel Spinks  
Executive Director  
Texas Behavioral Health Executive Council  
333 Guadalupe St, Tower 3, Room 900  
Austin, Texas, 78701

Dear Mr. Spinks,

Recently, constituents from Senate District 10 contacted me regarding serious concerns related to revisions to the Council's June 29, 2020 proposed rules (§781.301, Code of Conduct) implementing House Bill 1501 (86<sup>th</sup>). Specifically, their concerns relate to the removal of protections for clients on the basis of disability, sexual orientation or gender identity. On behalf of these social workers and their profession, I formally request that the Council reinstate the provisions of your originally proposed rule.

According to these professionals, as well as representatives of the National Association of Social Workers, the removal of these protections violates the standard of conduct and ethics established by and for their profession and compromises their ability to perform their duty to their clients.

Furthermore, the decision to specifically target and strike these provisions seem to violate the spirit of landmark United States Supreme Court decisions affirming the role the LGBTQ+ and disability communities as well as their right to live in a society free from discrimination.

I applaud your efforts to seek a balance and encourage you to hold fast to the high ethical standards expressed by the Council when these rules were first proposed over the summer. In the meantime, I have instructed my staff to draft potential legislation clarifying the rights of the LGBTQ+ and disability communities in this instance. Certainly, the professionals you regulate and the clients they serve deserve nothing less.

Sincerely,

A handwritten signature in blue ink that reads "Beverly Powell".

Beverly Powell  
Senator, District 10

CC: Gloria Canseco, M.A., Presiding Officer, Texas Behavioral Health Executive Council



# TEXAS HOUSE of REPRESENTATIVES



## JON E. ROSENTHAL



DISTRICT 135

October 16, 2020

The Honorable Greg Abbott  
Governor of Texas  
P.O. Box 12428  
Austin, Texas 78711

Presiding Officer Gloria Canseco  
Texas Behavioral Health Executive Council  
333 Guadalupe St., Ste. 3-900  
Austin, Texas 78701

Presiding Officer Timothy Brown  
Texas State Board of Social Work Examiners  
333 Guadalupe St., Ste. 3-900  
Austin, Texas 78701

*Electronically Delivered.*

Dear Governor Abbott, Presiding Officer Canseco, and Presiding Officer Brown,

I write to you today to express my deep concern regarding the Texas State Board of Social Work Examiners (TSBSWE) and Texas Behavioral Health Executive Council's (BHEC) recent change of RULE §781.201 in the social work Code of Conduct. This change removes the protections of an individual to be served by a social worker regardless of gender, disability, sexual orientation, and gender identity and expression. It is my concern that this opens the doors for discrimination for vulnerable Texans who require the various necessary services provided by social workers.

The Code of Conduct for social workers in Texas draws from the National Association of Social Workers Code of Ethics, established in 1960. Every state relies on it for their code of conduct or ethics. In the past any changes to the rules were open to public comment. When the TSBSWE and BHEC chose to accept the Governor's recommendation to change the Code they did not repost this section for public



# TEXAS HOUSE of REPRESENTATIVES



## JON E. ROSENTHAL



DISTRICT 135

comment. The public and social workers particularly deserve the right to voice their concern for these changes.

Not only does this contradict the social work Code of Ethics, this leaves a vulnerable population at a greater risk. The LGBTQ+ community relies on mental health professionals like social workers to treat their unique trauma's and gain access to important social services. According to the Texas Criminal Justice Coalition's One Size Fits All Report (2018), 26% of Travis County's homeless youth and 20-40% of Harris County's entire homeless population identify as LGBTQ+. In 2018 they found that 4,499 individuals in Texas prisons identify as LGBTQ+. Many believe these numbers may not be an accurate depiction as individuals may fear self-reporting. Members of this community face persecution, family rejection, housing and job discrimination and in some cases death.

Every Texan deserves to seek the services of a social worker or any mental health professional, with the trust that they will be free from stigma and discrimination. Social workers should be allowed the opportunity to voice their public comment as precedent in previous adoption of rules by the BHEC. I urge the board to reconsider the removal of the protection for LGBTQ+ individuals and individuals with disabilities. During this time all Texans are experiencing the collective trauma of COVID-19 and as such we should be doing everything in our power to protect the health and well-being of each of our communities.

Sincerely,

A handwritten signature in blue ink, appearing to be "JR", written over a horizontal line.

Jon E. Rosenthal  
Texas State Representative  
House District 135



# TEXAS HOUSE OF REPRESENTATIVES COMMITTEE ON PUBLIC HEALTH

SENFRONIA THOMPSON  
*Chair*

JOHN WRAY  
*Vice-Chair*

October 19, 2020

Darrel D. Spinks  
Executive Director  
Texas Behavioral Health Executive Council

Gloria Canseco  
Presiding Officer  
Texas Behavioral Health Executive Council

Timothy Brown  
Presiding Officer  
Texas State Board of Social Worker Examiners

*[Sent electronically]*

Dear Mr. Spinks, Ms. Canseco and Mr. Brown:

It has come to my attention that the Texas Behavioral Health Executive Council (BHEC) and the Texas State Board of Social Worker Examiners (TSBSWE) voted favorably on a rule that altered the Social Work Code of Conduct which removed protections for persons with disabilities and LGBTQ+ individuals seeking social work services.

I served on the Sunset Commission, advocated for the creation of the Texas Behavioral Health Executive Council and passed the bill (HB 1501) out of my committee so that behavioral and mental health professionals would be expeditiously served and governed by an efficient and ethical state agency. It is shameful to have BHEC and TSBSWE implement discriminatory rule changes, especially late in the hour, ignoring the rulemaking process and blatantly causing irreparable harm to Texans seeking social services.

Social workers are employed in many capacities throughout the State and are often in roles that serve vulnerable Texans at risk of or who have already experienced significant adversities. Persons with disabilities and members of the LGBTQ+ communities across the state of Texas are no exception to experiencing discrimination, bullying, adverse health outcomes, mental health and substance abuse issues and suicide.



## TEXAS HOUSE OF REPRESENTATIVES COMMITTEE ON PUBLIC HEALTH

SENFRONIA THOMPSON  
*Chair*

JOHN WRAY  
*Vice-Chair*

*page 2 (cont'd)*  
*October 19, 2020*

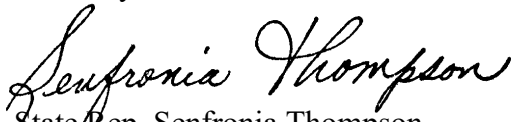
Permitting social workers to refuse services to vulnerable Texans because of personal or political beliefs equates to promoting systemic discrimination and is absolutely unacceptable.

Furthermore, social work professionals who abide by the NASW Code of Ethics which includes "sexual orientation" "gender identity or expression" and "mental or physical ability," deserve to have a Texas Code of Conduct that is aligned with its national professional standards for practicing social work.

In the era of COVID-19 where there are a greater number of adversities and sufferings experienced by Texans, and when the state was already suffering from a greater need for mental health services, I strongly recommend that you reverse this discriminatory rule change and follow the proper process to allow social work professionals and the broader public to comment.

Thank you for your prompt attention to this matter.

Sincerely,

  
State Rep. Senfronia Thompson  
Chair



October 20, 2020

Texas Behavioral Health Executive Council,  
333 Guadalupe St, Tower 3, Room 900  
Austin, Texas 78701

Dear Texas Behavioral Health Executive Council,

It came to our attention that the Texas State Board of Social Work Examiners made an alteration to the Texas Social Worker's Code of Conduct in response to an informal request from the Governor's office, and social workers are no longer prohibited from refusing their services on the basis of "disability" "sexual orientation" and "gender identity and expression." This was an unnecessary change to a well-established rule. Removing these protections is extremely discriminatory and would substantially affect the ability of individuals with disabilities and the LGBTQ community to access social workers' services. We respectfully request that you collaborate with the Texas State Board of Social Work Examiners in finding a solution in reinstating these antidiscrimination protections.

Not only does the board have an ethical duty and responsibility to keep the current code of conduct in place, but it also has the full legal authority to do so. This decision opens the door for discrimination against protected classes and is incongruous with the spirit of the profession of social work. Nondiscrimination on the basis of disability, sexual orientation, and gender identity and expression are well established components of the ethical practices of social workers; they were added to the state code of conduct in 2012 and are in accordance with the National Association of Social Workers' Code of Ethics.

This rule change undermines the very foundation upon which social work is built. The board should be elevating the practice of social work, not rolling nondiscrimination protections back. As a part of your ethical duty, we urge you to reverse this rule change and reinstate the former Texas Social Worker's Code of Conduct. Please let us know if you have any questions.

Sincerely,

Rep. Mary González, Chair

Rep. Jessica González, Vice Chair

Rep. Erin Zwiener, Secretary



Rep. Julie Johnson, Treasurer



Rep. Celia Israel, Founding Member



Rep. Rafael Anchia



Rep. Michelle Beckley



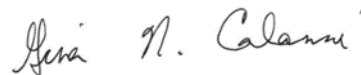
Rep. Diego Bernal



Rep. César Blanco



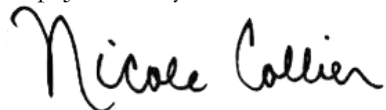
Rep. John Bucy III



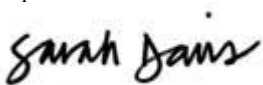
Rep. Gina Calanni



Rep. Garnet Coleman



Rep. Nicole Collier



Rep. Sarah Davis



Rep. Art Fierro



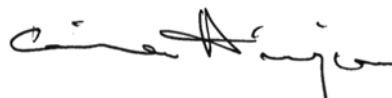
Rep. Barbara Gervin-Hawkins



Rep. Vikki Goodwin



Rep. Ana Hernandez



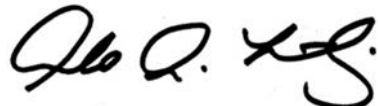
Rep. Gina Hinojosa



Rep. Donna Howard



Rep. Ray Lopez



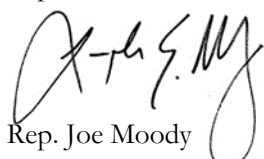
Rep. Mando Martinez



Rep. Trey Martinez Fischer



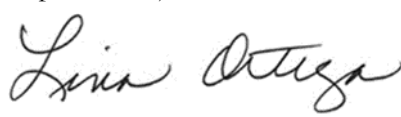
Rep. Ina Minjarez



Rep. Joe Moody



Rep. Christina Morales



Rep. Lina Ortega



Rep. Ron Reynolds



Rep. Eddie Rodriguez



Rep. James Talarico



Rep. Chris Turner



Rep. Gene Wu

cc Texas State Board of Social Work Examiners

## Public Opinion on Discrimination Law Changes

Jazmyn Zynda <jazzrocks2001@gmail.com>

Mon 10/19/2020 6:57 PM

To: general <general@bhec.texas.gov>

 1 attachments (84 KB)

Jazmyn Zynda Private Citizen.pdf;

My name is Jazmyn Zynda and I am a private citizen.

This opinion is concerning the changes to the discrimination law set forth by the Texas State Board of Social Work Examiners (please see attached document). I was told I needed to send this public comment to the Texas Behavioral Health Executive Council.

Thank you,  
Jazmyn Zynda  
719.639.4677



Jazmyn Zynda; Private Citizen

This new law removes protections for LGBTQ clients and clients with disabilities who seek social work services. According to socialwork.org “the primary mission of the social work profession is to enhance human well-being and help meet basic and complex needs of all people, with a particular focus on those who are vulnerable, oppressed, and living in poverty.”. By allowing social workers to make the determination on whether or not they will assist the LGBT and disabled communities, you are not meeting the basic needs of ALL people or enhancing human well-being on this complex, vulnerable and oppressed population. Besides that, I and many others are extremely concerned that this law will allow for social workers to not let LGBT families adopt children and not allow the LGBT community to acquire the mental health services they need. I am also concerned that this act will keep some of the disabled from acquiring assistance from social workers to get to their appointments or gain access to public buildings among other yet unseen effects. Everyone deserves access to these government services. Secondly, according to Will Francis, executive director of the Texas chapter of the National Association of Social Workers, you did not receive input from the social workers you oversee. I do understand that you met with the Texas Behavioral Health Executive Council but you still should have spoken with the people you oversee, who are out there doing day to day work and would have the most important input. Everyone deserves access to the public services regardless of any factors. Any restriction to access of public services leads to an increase in people whose needs are not meet. This is clearly going against the purpose of the social work community.



## Re: Bigotry in Social Work

Heydon Hensley <heydonhensley@gmail.com>

Mon 10/19/2020 5:39 PM

To: general <general@bhec.texas.gov>

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

It is inhumane to discriminate services based upon sexual orientation, gender identity, and gender expression. If unknown where this goes against the Social Worker Code of Ethic, please read the following:

4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.

I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

Heydon Hensley, MSW

## Unacceptable Discriminatory Practices

Charlotte McCafferty <cem21@terpmail.umd.edu>

Mon 10/19/2020 5:25 PM

To: general <general@bhec.texas.gov>

### To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

It is inhumane to discriminate services based upon sexual orientation, gender identity, and gender expression. If unknown where this goes against the Social Worker Code of Ethic, please read the following:

- 4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

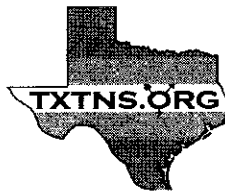
As a Social Worker I demand the following:

- That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
- I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,  
Charlotte

Sent from my iPhone



October 17, 2020

Texas Behavioral Health Executive Council  
333 Guadalupe St. Tower 3, Room 900  
Austin, Texas 78701

Dear Esteemed Members of the Council,

It is our hope that this letter can somehow appeal to your respect for human dignity, especially during a global pandemic. As a country, we have endured so much loss, pain, and suffering, where 8.09 million Americans have contracted the deadly *corona virus*. Even more devastating, is the reported number of *Covid* related deaths ("217,000") in the United States alone ("*The New York Times*," 2020). In the spirit of saving lives and reducing the potential for harm, we humbly ask that you please reconsider your recent and sudden decision to redact language from our state's established "Code of Conduct," (Rule §781.201) guaranteeing protections for individuals and communities that fall under "disabilities," "sexual orientation," "gender identity," and "gender expression."

As healthcare professionals and experts within your respective fields, there is no need to explain just how critical this decision is for the social work community, but more so, for the populations affected. Not only are you denying the existence of these marginalized and vulnerable populations, but you have single-handedly jeopardized the core values and ethics of Texas social work professionals, students, and retirees by dismantling the National Association of Social Workers "Code of Ethics."

Furthermore, our transgender-led non-profit organization, Texas Transgender Nondiscrimination Scholars (TXTNS), has been challenging anti-discrimination policies within institutions of higher learning and school board systems across Texas since 2009. Through collaborative efforts with some of Texas' most-reputable universities, we have successfully advocated for policy changes in over 35 institutions, to include protections for gender and sexual diverse individuals. It is disheartening to learn that our state's most dedicated mental health experts have essentially taken us back twenty to thirty years of painstaking action to further LGBTQIA and disability rights. We ask that you please reconsider your decision and reinstate protections for these populations that have been easily discarded by your brash decision to deny them the dignity and respect deserving of all people. You have the ability and power to help the powerless and make this right. We thank each of you for your dedicated service, as well as for your time and undivided attention. Lastly, TXTNS welcomes any opportunity to help in any way that we can be of service.

Sincerely,

Josephine Tittsworth, LMSW  
Executive Director, Texas Transgender Nondiscrimination Scholars

TTNS P. O. Box 1095 Baytown, Texas 77522  
Josephine@txtns.org  
TTNS a 501(c) 3 nonprofit organization

## In Solidarity with the Texas Chapter of NASW

Jennie Morrison <[morrisonj86@gmail.com](mailto:morrisonj86@gmail.com)>

Sat 10/17/2020 5:19 PM

To: general <[general@bhec.texas.gov](mailto:general@bhec.texas.gov)>

To the Texas State of Social Work Examiners.

Social Workers nationwide, including myself, are deeply concerned by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice as mental health professionals. I stand with the Texas chapter of the National Association of Social Workers in expressing outrage about these recent actions. As NASW has clearly laid out, these changes could come with unthinkable consequences for LGBTQ individuals and communities within your state.

As a social worker, I feel strongly that it is in direct contradiction with the values of our profession to withhold services based upon sexual orientation, gender identity, and gender expression. In particular, these changes directly defy this aspect of the Code of Ethics:

- 4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to the Code of Conduct and social work practices need to be discussed with the people that work in this field more transparently, through a public forum in which public comment is allowed.

I feel that these actions deeply violate the spirit of our profession, and the messages sent by these decisions impact the efficacy of social work on a national level. I ask the following:

1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
2. I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you.

Jennie Morrison

--

Jennie Morrison

tel: 734-904-6393

e-mail: [morrisonj86@gmail.com](mailto:morrisonj86@gmail.com)

## Code of Conduct Rule Change

Carlynn Jurica <carlynn.jurica@gmail.com>

Sat 10/17/2020 12:57 PM

To: general <general@bhec.texas.gov>

To the TSBSWE/BHEC Council:

I am extremely disappointed in your recent decision to remove protections for disability, sexual orientation, and gender identity and expression from the Texas social work code of conduct. While I realize this request came from Governor Abbott, that does not excuse your unanimous vote to accept it.

It is the job of social workers to stand with and for marginalized people, including (if not especially) in instances when those in power seek to disempower them. Social workers are supposed to be champions for social justice, yet not a single one of you said a word when this regressive change was brought up in your meeting. You were given the opportunity to comment, and you stayed silent. You were given the opportunity to voice an opinion—an opportunity denied to everyone else—and you accepted this rule change with less enthusiasm than a motion to change the color of the carpet in your office.

I expect this kind of discriminatory action from Governor Abbott, but to see this performance from my very own board is astonishing and deeply upsetting. Please, I implore you, acknowledge your mistake and reverse it. Reinstate protections from discrimination for ALL clients. Any social worker who would refuse vital services to anyone on the basis of who they are, how they present themselves, or what they lack in ability does not belong in this profession. This is not what social work is about.

Thank you for your time.

Carlynn Jurica, MSW, still waiting for licensure approval

Sent from my iPhone

## Discriminatory Policy

Kevin Calnan <[calnankevin6@gmail.com](mailto:calnankevin6@gmail.com)>

Sat 10/17/2020 4:11 AM

To: enforcement <[enforcement@bhec.texas.gov](mailto:enforcement@bhec.texas.gov)>; general <[general@bhec.texas.gov](mailto:general@bhec.texas.gov)>

To the Department of Human Resources and the Texas Board of Social Workers:

The new policy put into place by the Texas Board of Social Workers is absolutely deplorable. To allow discrimination based upon sexual orientation, gender identity, or disability, is an absolute disgrace to the field of Social Work. Social Workers exist to address societal issues and problems on an individual basis. If any social worker feels the need to turn away any client because of personal bigotry, they should choose another profession. The board director, the governor, and everyone who was complacent with this new policy vote ought to be ashamed of themselves. I am writing to express my great concern for those who are in need of social work services, especially in a state that has a desperate need for social workers and their services. To turn away anybody for who they are is not social work, it is discrimination, and it is illegal, and unquestionably a much larger legal issue than jurisdictional technicalities. The argument of jurisdictional problems is so irrelevant, and is an explicit example of systematic failures, and the slow undoing of democracy and its progress. This caught my attention today and I was extremely saddened to hear this, in fact I didn't believe it..."how can social workers discriminate? It's their job," I thought. This is a matter that I cannot bear witness to and not speak up against the clear discrimination happening in the state of Texas. I will not stop writing to this organization, Texas legislators, and social workers, as well as private organizations across the country, until justice is served for EVERYONE, especially those who need it the most. Our gay, lesbian, bisexual, transgender, and questioning members of society should not be shunned for who they are based on a "jurisdictional matter," when this is a Social Work matter, and shall be treated as such. With all due respect, I believe that this is purely evil and hateful, and the fact that this was allowable by a committee of Social Workers, speaks to the problems of prejudice that exist in your state and its society. Moreover, I urge you to reconsider this discriminatory policy, and address the technicality of the jurisdictional matter in such a way that everyone gets the justice they rightfully deserve.

--

Kevin T. Calnan

[calnankevin6@gmail.com](mailto:calnankevin6@gmail.com)

## Concerns Regarding Protections

Tara Becker <tbecker@momentousinstitute.org>

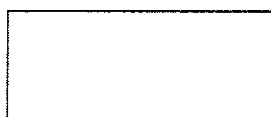
Fri 10/16/2020 8:26 PM

To: general <general@bhec.texas.gov>

Hello, my name is Tara Becker. I'm writing this email because I'm concerned about the removal of recent protections based on *disability, sexual orientation, gender identity and gender expression* by the TSBSWE Code of Conduct.

I'm asking that the BHEC ensure these protections.

Thank you,  
Tara Becker LMSW



TARA BECKER LMSW

MENTAL HEALTH TRAINER

106 E. 10<sup>TH</sup> ST | DALLAS, TX 75203

214.915.4782 | [TBECKER@MOMENTOUSINSTITUTE.ORG](mailto:TBECKER@MOMENTOUSINSTITUTE.ORG)

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## Social Workers and Ethics against discrimination

Kelly Inselmann <kellyinselmanntherapy@gmail.com>

Fri 10/16/2020 8:25 PM

To: general <general@bhec.texas.gov>

Dear Texas Social Worker Regulatory Board,

It is unethical to discriminate in services provided to people with disabilities or based on sexual identity/orientation and gender. Please revisit the recent change to Texas social worker requirements and ensure that the state is not endeavoring to codify discriminatory practices.

If a social worker believes it is outside his/her scope of practice to attend to a particular client, they are already ethically bound to refer them elsewhere. Nobody wants to work with a cruel or dogmatic social worker.

Would this mean my clients who are cancer survivors could be turned away because of their "disabilities" related to side effects and physical weakness?

Sincerely,

Kelly Inselmann, LCSW, C-IAYT, CGP

[www.kellyinselmann.com](http://www.kellyinselmann.com)

## Changes in SW code of conduct

Susie Loredo <SLoredo@legacycommunityhealth.org>

Fri 10/16/2020 8:19 PM

To: general <general@bhec.texas.gov>

To Alice Bradford and Gloria Canseco,

I am writing to oppose the recent change in the Social Workers Code of Conduct, removing protections for sexual orientation, gender identity and expression. This is outrageous, as is how it was snuck in late on a Friday afternoon without the knowledge and review of social workers in Texas. Please restore our code asap.

Thank you,

Susie Loredo, LMSW

**Susan Loredo, LMSW (She/Her/Hers)**

Addiction Services Social Worker

Legacy - Montrose Clinic

1415 California

Houston, Texas 77006

PH (832) 548 5000

legacycommunityhealth.org



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Pursuant to § 181.101(b)(2) of the Texas Health and Safety Code, this information may contain protected health information and is neither public information nor subject to disclosure under Chapter 552, Government Code. Unauthorized use, disclosure, or distribution to anyone other than the intended recipient is strictly prohibited. If you are not the intended recipient, please delete this e-mail and any attachments, notify the sender immediately, and contact the Legacy Network Administrator at (832)-548-5151.

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**SHAME!**

Susan Blanchard <susanblanchard17@hotmail.com>

Fri 10/16/2020 8:09 PM

To: general <general@bhec.texas.gov>

SHAME on this allegedly professional Board for changing the Code of Conduct for Texas social workers! This has resulted in embarrassment to our proud profession and made Texas a laughingstock. Not only to do this but to do it quietly and without input from real social workers, those of us who actually see clients and patients. I paid more this month than I ever have for license renewal, if this is what our money is used for, we need a new Board. If you actually believe that Texas social workers will not address this through peaceful protest and by voting out every member at the end of their terms, you do not know Texas social workers...but that is abundantly clear. You cannot legally legislate us to take unethical actions. SHAME!

Susan Blanchard, LCSW

LCS #55404

## NASW Code of Ethics Violation

Chelsea Pilon <chelsea.pilon@gmail.com>

Fri 10/16/2020 8:05 PM

To: enforcement <enforcement@bhec.texas.gov>; general <general@bhec.texas.gov>; licensing <licensing@bhec.texas.gov>

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

It is inhumane to discriminate services based upon sexual orientation, gender identity, and gender expression. If unknown where this goes against the Social Worker Code of Ethic, please read the following:

4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.

I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

--

Chelsea Pilon Sent from my iPhone

## DHR Health Comments on TX St Board of Social Workers Examiners Recent Actions on Code of Conduct

Roberto Haddad <r.haddad@dhr-rgv.com>

Fri 10/16/2020 7:08 PM

To: general <general@bhec.texas.gov>

Cc: Carlos J. Cardenas <c.cardenas@dhr-rgv.com>; Simon C. Cardenas <s.cardenas@dhr-rgv.com>; Delma Longoria <d.longoria@dhr-rgv.com>; Ginger A.H. Scoggins <g.honse@dhr-rgv.com>; Randee M. Jackson <r.jackson@dhr-rgv.com>

 1 attachments (75 KB)

2020.10.16 TX St Bd Social Wrkrs - DHR Comment Ltr Code of Conduct.pdf;

Dear Texas Behavioral Executive Council and Texas State Board of Social Worker Examiners,

Attached please find a comment letter by Doctors Hospital at Renaissance, Ltd. expressing profound disappointment in the adoption of changes to the Texas Social Work Code of Conduct by the Texas State Board of Social Worker Examiners that would no longer prohibit social workers from turning away clients on the basis of disability, sexual orientation, or gender identity.

We are disheartened by the adopted changes and urge the Board immediately implement protections for disability, sexual orientation, and gender identity for all of the boards under the Council.

Sincerely,

---

**Roberto Haddad**

**VP & Counsel for Government Affairs and Policy**

o. 956-362-7138

5501 S. McColl Rd.

c. 956-662-9008

Edinburg, TX 78539



**DHRHealth**



[www.DHRHealth.com](http://www.DHRHealth.com)

"This e-mail and the files transmitted with it are the property of Doctors Hospital at Renaissance and/or its affiliates, are confidential, and are intended solely for the individual or entity to whom this e-mail is addressed. If this e-mail was sent to you by error, please delete the message immediately from your computer. Any other use, retention, dissemination, forwarding, printing, or copying of this e-mail is strictly prohibited. All inbound and outbound e-mail messages and attachments are being scanned for viruses, spam, and content by an appliance. Any questions or concerns please call the IS E-mail Administrator at 956-362-7799."



October 16, 2020

Texas Behavioral Executive Council  
Texas State Board of Social Worker Examiners  
333 Guadalupe St.  
Tower 3, Room 900  
Austin, TX 78701

Dear Texas Behavioral Executive Council and Texas State Board of Social Worker Examiners,

On behalf of Doctors Hospital at Renaissance, Ltd. (DHR Health), I express our profound disappointment in the adoption of changes to the Texas Social Work Code of Conduct by the Texas State Board of Social Worker Examiners (Board) that would no longer prohibit social workers from turning away clients on the basis of disability, sexual orientation, or gender identity.

DHR Health is a homegrown community health system founded over twenty years ago with a mission to eliminate the need for our residents to have to travel hundreds of miles to seek necessary medical care and advanced health services. Located in the Rio Grande Valley of Deep South Texas, we serve a population of over 1.3 million without discrimination. Our health system provide access to the most comprehensive and advanced health care services in our region with four hospitals, 60+ clinics, 600+ physicians, and over 1,300 nurses providing care in over 70 specialties and sub-specialties.

Social workers dedicate their lives to the service of humanity and social justice. They serve as a vital component of the health care sector, serving as a bridge between medical providers and the larger social and human needs of our patients. By removing protections for certain marginalized persons, the adopted changes fly in the face of the creed by which social workers abide. DHR Health proudly employs social workers who accomplish a myriad of tasks to help our patients' get healthy, including but not limited to, addressing basic needs such as securing food, connecting homeless with other social services, ensuring the well-being of children, securing medicines, transportation, or a place to stay, and generally helping patients successfully transition to life after their stay in an acute care setting. We simply could not provide the high-level-of-care to our patients without these dedicated individuals.

We are disheartened by the adopted changes and urge the Board immediately implement protections for disability, sexual orientation, and gender identity for all of the boards under the Council. Thank you for the opportunity to make this request.

Sincerely,

A handwritten signature in black ink, appearing to read "C. J. Cardenas".

Carlos J. Cardenas, MD  
Chairman of the Board

cc

Timothy M. Brown, MSW  
Gloria Canseco, MA Presiding Officer



**DHR**Health

Dr. h.c. Sara Abraham

John K Bielamowicz

Steve Christopherson, MS

Susan Fletcher, Ph.D.

George F. Francis, IV, MBA

Ben Morris, M.Ed.

Jennifer Smothermon, MA

Beverly Jackson Loss, LMSW

Brian C. Brumley, LMSW-IPR

Maria Casto, LBSW

Mark Talbot

Ben W. Morris, M.Ed.

Martha Mosier, LCSW

Audrey Ramsbacher, LBSW

## Texas State Board of Social Worker Examiners Decision

Jennifer McDermott <jennifmcd@gmail.com>

Sun 10/18/2020 2:14 AM

To: naswtex.naswtx@socialworkers.org <naswtex.naswtx@socialworkers.org>; licensing <licensing@bhec.texas.gov>; enforcement <enforcement@bhec.texas.gov>; general <general@bhec.texas.gov>

To parties of concern,

Social Workers and counselors across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

It is inhumane to discriminate services based upon sexual orientation, gender identity, and gender expression. If unknown where this goes against the Social Worker Code of Ethic, please read the following:

- 4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
2. I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers and counselors across the national as well as folks receiving mental health services are counting on you.

Thank you,

Jennifer McDermott



## Texas Behavioral Health Executive Council

Bryan Stare <bstare@uncc.edu>

Sun 10/18/2020 6:02 PM

To: general <general@bhec.texas.gov>

I am writing to express my dismay and disgust at the Texas State Board of Social Work Examiners recent removal of protection of LGBTQ and disabled person from discriminatory protection. Please reverse this action in order to protect Texas's LGBTQ and disabled populations immediately.

Thank you,

Bryan G. Stare, Ph. D., LPC (TX), NCC  
Assistant Professor  
Director, Clinical Mental Health Counseling Program  
Department of Counseling  
Cato College of Education  
UNC-Charlotte  
Charlotte, NC 28223-0001

## Unethical Code Change

Kaelyn Griffin <kaelyn.griffin@yahoo.com>

Sun 10/18/2020 8:54 PM

Good afternoon,

Social Workers and mental health care providers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also goes against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

It is inhumane to discriminate services based upon sexual orientation, gender identity, and gender expression. If unknown where this goes against the Social Worker Code of Ethic, please read the following:

- 4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to the Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a student within the field of mental health, I demand the following:

1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
2. I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

Kaelyn Griffin, BA Psychology  
Pronouns: she/her/hers  
kaelyn.griffin@yahoo.com

## We demand change!

Anne D <4nn3.4nn3.4nn3@gmail.com>

Sat 10/17/2020 2:34 AM

To: licensing <licensing@bhec.texas.gov>

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

It is inhumane to discriminate services based upon sexual orientation, gender identity, and gender expression. If unknown where this goes against the Social Worker Code of Ethic, please read the following:

4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, **I demand the following:**

1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
2. I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.
3. It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,  
Anne D

**TSBSWE - You made a mistake. Please fix it.**

Melanie Little <mdlittle39@gmail.com>

Sun 10/18/2020 2:34 AM

To: enforcement <enforcement@bhec.texas.gov>; general <general@bhec.texas.gov>

My intention is to get this to the Board of Social Work Examiners. I do not see a contact on the website, so please be sure to get this to Timothy Brown, Beverly Jackson Loss, Brian Brumley, Maria Castro, Mark Talbot, Megan MARie Graham, Ben Morris, Martha Mosier, and Audrey Ramsbacher.

My name is Melanie Little and I am a Texas Social Worker. I am writing to request a reversal of a decision that was made at the Texas (TWBSWE) Board Meeting last week to remove language protecting discrimination for disability, sexual orientation, gender identity and gender expression.

The Governor's office rationalizes this change by claiming that agency rules cannot be more expansive than what is in state law. However, the TSBSWE has the explicit statutory authority to propose and adopt rules regarding: "the scope of practice of and standards of care and ethical practice for social work." This includes defining anti-discrimination protections under the Code of Conduct.

As a Social Worker, I firmly believe this goes against the basic foundation of the profession of Social Work. It is astonishing to see that you voted unanimously for something that is in absolute contradiction with the purpose we serve as Social Workers.

The Governor made this decision in a manner that undermined the processes in place for rules changes. Had he submitted this request for a rewrite through the appropriate channels, NASW Texas would have communicated the proposed change to Social Workers across the state and heard our voices. NASW Texas would have had an opportunity to appropriately advocate for continued protections against discrimination for disability, sexual orientation, gender identity and gender expression.

You have failed to represent the cause or profession of Social Work in this instance, and I am requesting a reversal of this language in our code so we can continue proudly serving the underserved communities in our great state of Texas.

Melanie Little, LMSW, LCDC

## New rule

Kaila Thomas <kthomas@fscgal.org>

Mon 10/19/2020 3:14 PM

To: general <general@bhec.texas.gov>

To whom it may concern:

I am writing to express my deep disappointment and disgust in the introduction of the recent rule allowing social workers in Texas to refuse services to clients if they are disabled or identify as LGBTQIA+. As a social worker, it is my ethical responsibility to respect and honor the dignity and worth of all people, regardless of their sexual orientation, gender identity, or ability. There should not be rules that go directly against my ethical responsibilities to my clients. I demand that BHEC re-visit this rule and vote for it to be eliminated and that social workers be prohibited from refusing treatment to any individual in the state of Texas on the basis of any aspect of their personal identity. Know that there are thousands of social workers in the state of Texas and beyond who are horrified about this decision and are committed to fighting until the decision is reversed.

I look forward to your response.

### **Kaila Thomas, LMSW**

FAYS Therapist | Rosenberg Elementary School

Family Service Center of Galveston County

(281)-299-0967

Supervised by: Pat Merkley, LCSW-S

Galveston Island Office:

2200 Market Street, Suite 600

Galveston TX 77550

(409)-762-8636

**Re: Code of Conduct Changes**

Mikaela Frissell <mikaela.frissell@gmail.com>

Fri 10/16/2020 1:01 PM

To: general <general@bhec.texas.gov>

I appreciate your office responding. However, as NASW-TX President Will Francis has said "Rules can always cover more ground as long they don't contradict the law, which these protections did not." It is clear that Greg Abbott is trying to use his expanded authority over professional licensing to further a political agenda aimed at diminishing the rights and protections of a class of people he has a personal bias against, namely the LGBTQ community. I pray that the BHEC will defend social workers ethical responsibilities over political agendas.

Thank you for your time and consideration.

On Thu, Oct 15, 2020 at 10:01 PM general <general@bhec.texas.gov> wrote:

Please know the Council understands your concerns and will certainly keep them in mind when it takes up the important issue of discrimination by licensees at its October 27th meeting.

It is important that licensees and the public understand the attached rule change was not adopted to diminish protections against discrimination, but to ensure the rule comports with the underlying statutory authority.

Darrel D. Spinks  
Executive Director

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**From:** Mikaela Frissell <mikaela.frissell@gmail.com>

**Sent:** Thursday, October 15, 2020 11:19 PM

**To:** general <general@bhec.texas.gov>

**Subject:** Code of Conduct Changes

To BHEC,

As a social worker practicing in Texas, I am dismayed at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

It is inhumane to discriminate services based upon sexual orientation, gender identity, and gender expression. If unknown where this goes against the Social Worker Code of Ethic, please read the following:

4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.

I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you.

--

Mikaela Frissell

917-710-7218

[mikaela.frissell@gmail.com](mailto:mikaela.frissell@gmail.com)

--

Mikaela Frissell

917-710-7218

[mikaela.frissell@gmail.com](mailto:mikaela.frissell@gmail.com)

## Re: Bigotry in Social Work

Heydon Hensley <heydonhensley@gmail.com>

Fri 10/16/2020 11:29 AM

To: general <general@bhec.texas.gov>

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.

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It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

-Heydon Hensley, MSW



## Restore Fairness

Michael Myers <michaeljmyers@hotmail.com>

Fri 10/16/2020 12:54 PM

To: general <general@bhec.texas.gov>

Urging the BHEC to restore protections for LGBT citizens, and citizens with disabilities.

Please rescind this reprehensible and shameful maneuver of bigotry and intolerance.

Michael Myers

**Fw: Discrimination in Social Work**

Charles Gonzales <charles.gonzales@bhec.texas.gov>

Fri 10/16/2020 3:50 PM

To: general <general@bhec.texas.gov>

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**From:** Charlotte Weber <char821@gmail.com>

**Sent:** Friday, October 16, 2020 10:10 AM

**To:** enforcement <enforcement@bhec.texas.gov>

**Subject:** Discrimination in Social Work

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.

I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the nation as well as folks receiving mental health services are counting on you.

Thank you,

Charlotte Weber, LMSW

Sent from my iPhone

**Fw: TSBSWE decision**

Victoria Skiff <victoria.skiff@bhec.texas.gov>

Fri 10/16/2020 9:36 AM

To: general <general@bhec.texas.gov>

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**From:** Joclyn Tiedt <joclyntiedt@gmail.com>

**Sent:** Thursday, October 15, 2020 1:36 PM

**To:** licensing <licensing@bhec.texas.gov>; enforcement <enforcement@bhec.texas.gov>; general <general@bhec.texas.gov>

**Subject:** TSBSWE decision

To all relevant parties,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.

I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

Joclyn Tiedt

## NO DISCRIMINATION IN SOCIAL WORK

Brooke Epstein <brookeeps@gmail.com>

Fri 10/16/2020 1:38 PM

To: licensing <licensing@bhec.texas.gov>; enforcement <enforcement@bhec.texas.gov>; general <general@bhec.texas.gov>; naswtex.naswtx@socialworkers.org <naswtex.naswtx@socialworkers.org>

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
2. I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

Brooke Epstein, MSW, LSW

**Fw: Recent Changes to TX Code of Ethics**

enforcement <enforcement@bhec.texas.gov>

Fri 10/16/2020 1:24 PM

To: general <general@bhec.texas.gov>

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**From:** Alexis Leeper <adleeper1@gmail.com>

**Sent:** Friday, October 16, 2020 8:22 AM

**To:** enforcement <enforcement@bhec.texas.gov>; licensing <licensing@bhec.texas.gov>

**Subject:** Recent Changes to TX Code of Ethics

To whom it may concern:

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
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It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,  
Alexis Leeper, LCSW

## Texas State Board of Social Worker Examiners Discrimination

Meagan Hickey <meagchickey@gmail.com>

Fri 10/16/2020 11:44 AM

To: enforcement <enforcement@bhec.texas.gov>; licensing <licensing@bhec.texas.gov>; general <general@bhec.texas.gov>

To Parties of Concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.

I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

Meagan Hickey, MSW, LCSW







## FW: Recent Changes to Code of Conduct

enforcement <enforcement@bhec.texas.gov>

Fri 10/16/2020 1:39 PM

To: general <general@bhec.texas.gov>

-----Original Message-----

From: Lauren Hargraves <lhargraves03@gmail.com>

Sent: Thursday, October 15, 2020 3:09 PM

Subject: Recent Changes to Code of Conduct

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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\* 4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
2. I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether

unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

--

Lauren Hargraves, LMSW

LHargraves03@gmail.com <<mailto:LHargraves03@gmail.com>>

(512) 550-7591

(pronouns: she, her, hers)

## Discriminatory Language

Frances Cooke <fpcooke@gmail.com>

Thu 10/15/2020 7:43 PM

To: naswtex.naswtx@socialworkers.org <naswtex.naswtx@socialworkers.org>

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways they practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Any changes to their Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a mental health researcher that is a by these changes, I demand the following:

1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
2. I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,  
Frances Cooke



**FW: Discrimination**

enforcement <enforcement@bhec.texas.gov>

Fri 10/16/2020 1:35 PM

To: general <general@bhec.texas.gov>

**From:** Bailie Reinhardt <bailie.reinhardt@gmail.com>

**Sent:** Thursday, October 15, 2020 3:24 PM

**To:** naswtex.naswtx@socialworkers.org

**Subject:** Discrimination

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Thank you,

Bailie Reinhardt  
Portland, OR 97211



**FW: Discrimination**

enforcement <enforcement@bhec.texas.gov>

Fri 10/16/2020 1:34 PM

To: general <general@bhec.texas.gov>

**From:** Emily Britz <em.britz23@gmail.com>

**Sent:** Thursday, October 15, 2020 3:39 PM

**To:** enforcement <enforcement@bhec.texas.gov>

**Subject:** Discrimination

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
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It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

## Texas State Board of Social Worker Examiners discriminatory language

Rebecca Flynn <reh5037@gmail.com>

Fri 10/16/2020 12:52 AM

To: naswtex.naswtx@socialworkers.org <naswtex.naswtx@socialworkers.org>; licensing <licensing@bhec.texas.gov>; enforcement <enforcement@bhec.texas.gov>; general <general@bhec.texas.gov>

Dear parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

It is inhumane to discriminate services based upon sexual orientation, gender identity, and gender expression. If unknown where this goes against the Social Worker Code of Ethic, please read the following:

- 4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
2. I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

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Thank you,

Rebecca E. Houston, MSW

--

781 Powhatan Beach Rd.  
Pasadena, MD 21122  
(724-914-2196)

"Caring for myself is not self-indulgence, it is self-preservation, and that is an act of political warfare."

– **audre lorde**

## Discriminatory Practices

Maria Cirillo <maria.cirillo.msw@gmail.com>

Fri 10/16/2020 1:05 AM

To: naswtex.naswtx@socialworkers.org <naswtex.naswtx@socialworkers.org>; licensing <licensing@bhec.texas.gov>; enforcement <enforcement@bhec.texas.gov>; general <general@bhec.texas.gov>

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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counting on you.

Thank you,  
Maria Cirillo, MSW, RCSWI  
Tallahassee, FL

## CALL TO ACTION

Bethany Talmon <bethtalmon95@gmail.com>

Fri 10/16/2020 1:27 AM

To: enforcement <enforcement@bhec.texas.gov>; licensing <licensing@bhec.texas.gov>; general <general@bhec.texas.gov>; naswtex.naswtx@socialworkers.org <naswtex.naswtx@socialworkers.org>

Dear The National Association of Social Workers and Texas State Board of Social Worker Examiner's,

The NASW has done very little to publicly stand up against the corrupt foundations that law enforcement stands upon: racism, white supremacy, sexism, slut-shaming, classism, capitalism, etc. The NASW has also shown that they are not interested in engaging in open dialogue with Social Workers around these conversations, as the NASW has spent the last few months blocking mental health professionals on their social media that work to bring this to their attention and hold them accountable. On top of this, the NASW does little to engage in critical conversations around transformative and restorative justice, which should be the absolute basis of the work we do rather than pushing a punishment-based approach.

I, a Social Worker, am reaching out due to complete disgust at the current "Police and Police Social Workers: A Collaborative Effort Towards Social Justice" webinar being offered on the NASW website. Not only does law enforcement and the criminal "justice" system continuously fail our clients but outwardly advocating for collaboration with a system that causes our clients harm is proving to them how we will continue to fail them.

The first Course Objective of the webinar reads, "examine how law enforcement is consistent and inconsistent with social justice." Knowing that law enforcement systemically targets and harms our clients, why would we advocate for them being consistent with social work values? Do you think any poor folks, houseless folks, Black folks, folks relying on substances as a means for surviving, etc would state that law enforcement values are consistent with what the values of a mental health professional should be?

Our clients already know how we fail them. It is up to us to step up and do better.

### CALL TO ACTIONS FOR THE NASW:

- Delete the "Police & Police Social Workers" webinar from the NASW website.
- Not offer any more continuing education around Police & Police Social Worker Collaboration.

- Creating a public statement and outwardly taking a stand how collaboration with law enforcement is not consistent with Social Work and directly stands against our Code of Ethics. Please view the following Ethical Principles and see how they directly do not align: Social Justice. Please view the following Ethical Standards and see how they directly do not align: 1.01 Commitment to Clients, 1.02 Self-Determination, 1.02 Informed Consent, 1.04 Competence, 1.06 Conflicts of Interest, 1.07 Privacy & Confidentiality, 1.08 Access to Records, 1.16 Referral of services, 2.03 Interdisciplinary Collaboration (as we should be advocating for our clients best interest), 2.08 Impairment of Colleagues, 2.08 Incompetence of Colleagues, 2.10 Unethical Conduct of Colleagues, 3.09 Commitment to Employers, 4.01 Competence, 4.02 Discrimination, 4.04 Dishonesty Fraud and Deception, 4.06 Misrepresentation, 5.01 Integrity of the Profession, 6.01 Social Welfare, 6.02 Public Participation, & 6.04 Social and Political Action.

- Having an open forum for Social Workers to represent their own ideas and needs, rather than the NASW assuming what Social Workers (or our clients) need and want around police collaboration

- Unblock Social Workers on your social media pages that have been pouring in time and

emotional labor to hold you accountable

Collaborate and pay folks harmed by law enforcement, the criminal "justice" system, and Social Work (whether mental health professionals or folks with lived experience) that can assist in bringing education around least invasive means, necessary policy/procedure change, non-punishment based approaches, transformative & restorative justice, community-care & mutual aid, etc.

Look forward to hearing back about the 6 Call to Actions above,

Bethany Talmon, LMSW

## CALL TO ACTION

Bethany Talmon <bethtalmon95@gmail.com>

Fri 10/16/2020 1:30 AM

To: enforcement <enforcement@bhec.texas.gov>; licensing <licensing@bhec.texas.gov>; general <general@bhec.texas.gov>; naswtex.naswtx@socialworkers.org <naswtex.naswtx@socialworkers.org>

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Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

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I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

Bethany Talmon, LMSW



## Reverse your discriminatory law that goes against the Social Work code of ethics!!

Alexa Feela <alexafeela@gmail.com>

Fri 10/16/2020 2:44 AM

To: licensing <licensing@bhec.texas.gov>; enforcement <enforcement@bhec.texas.gov>; general <general@bhec.texas.gov>

To whom this concerns,

My name is Alexa Feela and I just received my Master's of Social Work in Chicago. I am very passionate about the field of social work and the wonderful people I have worked with over the years.

I, along with Social Workers across the nation, am disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also goes against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Thank you,  
Alexa Feela, MSW

**FW: Anti-LGBTQ+ Concerns**

enforcement <enforcement@bhec.texas.gov>

Fri 10/16/2020 1:29 PM

To: general <general@bhec.texas.gov>

**From:** Catie Faltisco <catie.faltisco@gmail.com>

**Sent:** Thursday, October 15, 2020 11:07 PM

**To:** enforcement <enforcement@bhec.texas.gov>

**Subject:** Anti-LGBTQ+ Concerns

To parties of concern,

Social Workers, including myself, across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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- Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker in New York State, I demand the following:

1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
2. I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

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Thank you,

Catie Faltisco, LCSW in New York State

## Anti-LGBTQ+ Concerns

Catie Faltisco <catie.faltisco@gmail.com>

Fri 10/16/2020 4:07 AM

To: general <general@bhec.texas.gov>

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Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker in New York State, I demand the following:

That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.

I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

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Thank you,  
Catie Faltisco, LCSW in New York State

**Fw: As a Social Worker**

licensing <licensing@bhec.texas.gov>

Fri 10/16/2020 4:01 AM

To: general <general@bhec.texas.gov>

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**From:** Hope Eggers <hope.eggers4@gmail.com>

**Sent:** Thursday, October 15, 2020 8:05 PM

**To:** licensing <licensing@bhec.texas.gov>

**Subject:** As a Social Worker

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Thank you,  
Hope Eggers, Licensed Baccalaureate Social Worker

**Fw: Decision to remove sexual orientation, gender identity and expression**

licensing <licensing@bhec.texas.gov>

Fri 10/16/2020 4:01 AM

To: general <general@bhec.texas.gov>

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**From:** Arielle Zimmerman <ariellerzimmerman@gmail.com>

**Sent:** Thursday, October 15, 2020 8:57 PM

**To:** licensing <licensing@bhec.texas.gov>

**Subject:** Decision to remove sexual orientation, gender identity and expression

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Thank you,  
Arielle

Sent from my iPhone

## Changes to the Code of Conduct

White, Elizabeth L <elw91@txstate.edu>

Fri 10/16/2020 3:36 AM

To: general <general@bhec.texas.gov>

Changes to the Texas State Social Workers' Code of Conduct are against a social workers' Code of Ethics.

The Code of Ethics for social workers requires that a social worker be committed to self-determination (1.01 NASW Code of Ethics). We are also charged to be culturally aware and understand social diversity - the code literally states, "Social workers should have a knowledge base of their clients' cultures and be able to demonstrate competence in the provision of services that are sensitive to clients' cultures and to differences among people and cultural groups." AND "Social workers should obtain education about and seek to understand the nature of social diversity and oppression with respect to race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, and mental or physical ability." (1.05 NASW Code of Ethics).

It also states, that "Social workers should not take unfair advantage of any professional relationship or exploit others to further their personal, religious, political, or business interests." (1.06 NASW Code of Ethics). If a social worker has a political or religious reason that they can not serve a client - then they should not be a social worker. In that case, a complaint should be filed and the Texas Board of Social Worker Examiners should bring the complaint to the attention of the social worker in the same manner as any other violation. The NASW Code of Ethics is widely used throughout the WORLD as the most accepted guideline/rules that social workers should live by. We as a profession have the values of social justice, advocating for the oppressed and vulnerable populations, as well as treating every person with dignity.

Elizabeth White  
MSW Student

**Fw: Discrimination does not belong in social work**

licensing <licensing@bhec.texas.gov>

Fri 10/16/2020 3:26 AM

To: general <general@bhec.texas.gov>

---

**From:** Rachel Jamrozy <rachel.jamrozy@gmail.com>  
**Sent:** Thursday, October 15, 2020 2:02 PM  
**To:** licensing <licensing@bhec.texas.gov>  
**Subject:** Discrimination does not belong in social work

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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As a Social Worker that is affected by these changes, I demand the following:

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It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,  
Rachel Jamrozy, MSW

**Fw: Discrimination**

licensing <licensing@bhec.texas.gov>

Fri 10/16/2020 3:20 AM

To: general <general@bhec.texas.gov>

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**From:** Emily Britz <em.britz23@gmail.com>

**Sent:** Thursday, October 15, 2020 3:38 PM

**To:** licensing <licensing@bhec.texas.gov>

**Subject:** Discrimination

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Thank you,

**Fw: Discrimination**

licensing <licensing@bhec.texas.gov>

Fri 10/16/2020 3:20 AM

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Thank you,

**Fw: Unethical Changes to SW Code of Conduct**

licensing <licensing@bhec.texas.gov>

Fri 10/16/2020 3:19 AM

To: general <general@bhec.texas.gov>

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**From:** Michelle Clawson <michelle.clawson@gmail.com>

**Sent:** Thursday, October 15, 2020 3:55 PM

**To:** licensing <licensing@bhec.texas.gov>

**Subject:** Unethical Changes to SW Code of Conduct

As a fellow social worker I am writing to express my deep disappointment that the Texas Board of Social Work Examiners accepted removal of protections against discrimination for LGBTQIA individuals from the Code of Conduct. As you are well aware, this Code of Conduct is based directly off the NASW Code of Ethics and this language has been in our ethics for 10 years. As you are a field instructor, I truly do not understand how you could advise students while also accepting this change. I hope you will reconsider your ethical obligations and speak out against adopting this language.

Sincerely,

Michelle Clawson, LCSW

## Changes to the Texas State Social Workers code of conduct

Hodges, Taylor M <tmh159@txstate.edu>

Fri 10/16/2020 2:52 AM

To: general <general@bhec.texas.gov>

Changes to the Texas State Social Workers' Code of Conduct are against a social workers' Code of Ethics

The Code of Ethics for social workers requires that a social worker be committed to self-determination (1.01 NASW Code of Ethics). We are also charged to be culturally aware and understand social diversity - the code literally states, "Social workers should have a knowledge base of their clients' cultures and be able to demonstrate competence in the provision of services that are sensitive to clients' cultures and to differences among people and cultural groups." AND "Social workers should obtain education about and seek to understand the nature of social diversity and oppression with respect to race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, and mental or physical ability." (1.05 NASW Code of Ethics).

It also states, that "Social workers should not take unfair advantage of any professional relationship or exploit others to further their personal, religious, political, or business interests." (1.06 NASW Code of Ethics). If a social worker has a political or religious reason that they can not serve a client - then they should not be a social worker. In that case, a complaint should be filed and the Texas Board of Social Worker Examiners should bring the complaint to the attention of the social worker in the same manner as any other violation. Then NASW Code of Ethics is widely used throughout the WORLD as the most accepted guideline/rules that social workers should live by. We as a profession have the values of social justice, advocating for the oppressed and vulnerable populations, as well as treating every person with dignity.

Thank you,

Taylor Hodges  
Texas State University  
School of SW -BSW Student

## **Irresponsible and unprofessional - changes to non-discrimination based on sexual identity and sexual orientation**

KeriAnne Moon <kerimauch@gmail.com>

Fri 10/16/2020 2:22 AM

To: general <general@bhec.texas.gov>

Changes to the Texas State Social Workers' Code of Conduct are against a social workers' Code of Ethics. How can a state reverse a protection without due process and asking what is best for the people of Texas? The Code of Ethics for social workers requires that a social worker be committed to self-determination (1.01 NASW Code of Ethics), cultural awareness and social diversity that literally states, "Social workers should have a knowledge base of their clients' cultures and be able to demonstrate competence in the provision of services that are sensitive to clients' cultures and to differences among people and cultural groups." AND "Social workers should obtain education about and seek to understand the nature of social diversity and oppression with respect to race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, and mental or physical ability." (1.05 NASW Code of Ethics). It also states, that "Social workers should not take unfair advantage of any professional relationship or exploit others to further their personal, religious, political, or business interests." (1.06 NASW Code of Ethics). If a social worker has a political or religious reason that they can not serve a client - then they should not be a social worker. In that case, a complaint should be filed and the Texas Board of Social Worker Examiners should bring the complaint to the attention of the social worker in the same manner as any other violation. Then NASW Code of Ethics is widely used throughout the WORLD as the most accepted guideline/rules that social workers should live by. We as a profession have the values of social justice, advocating for the oppressed and vulnerable populations, as well as treating every person with dignity. This is just unfathomable.

--

- Keri Moon  
LCSW #60361



## Does anyone on our boards know what it means to be a Social Worker?

Angela Williams <akwilliams@icloud.com>

Fri 10/16/2020 1:19 AM

To: general <general@bhec.texas.gov>

Greetings. I am writing to express my extreme displeasure with the actions of the BHEC & the TSBSWE. To remove protections afforded two groups of chronically marginalized groups flies in the face of everything that being a Social Worker means to me. Gloria Canseco and Alice Bradford should resign from their positions, immediately, and rational, compassionate people should overturn this ridiculousness on October 27.

Angela K. Williams, LCSW-S

License # 15439

512-293-2649

## Code of Conduct Changes

Mikaela Frissell <mikaela.frissell@gmail.com>

Thu 10/15/2020 11:20 PM

To: general <general@bhec.texas.gov>

To BHEC,

As a social worker practicing in Texas, I am dismayed at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

It is inhumane to discriminate services based upon sexual orientation, gender identity, and gender expression. If unknown where this goes against the Social Worker Code of Ethic, please read the following:

4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.

I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you.

--

Mikaela Frissell

917-710-7218

[mikaela.frissell@gmail.com](mailto:mikaela.frissell@gmail.com)

## Outrage for TSBSWE Accepting Discriminatory Language

Melanie Acosta <macos112@fiu.edu>

Fri 10/16/2020 3:17 PM

To: general <general@bhec.texas.gov>

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directed against the National Social Worker Code of Ethics, but it also codes against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

It is inhumane to discriminate services based upon sexual orientation, gender identity, and gender expression. If unknown where this goes against the Social Worker Code of Ethic, please read the following:

- 4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker, I demand the following:

1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
2. I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm and do better. Social Workers across the nation as well as folks receiving mental health services are counting on you.

Thank you,  
Melanie Acosta

## Social Workers

John Bruels <jbruels@yahoo.com>

Thu 10/15/2020 9:54 PM

To: general <general@bhec.texas.gov>

Greetings,

As a holder of a Texas Licensed Clinical Social Worker, I feel compelled to voice my objection over your boards decision to align disciplinary rules with Texas law, thereby removing important protections against discrimination of refusing services to people based on their sexual orientation or disability status.

The heart of our code of ethics and standards of practice is to work to protect the rights of vulnerable populations. The correct path for the board is NOT to capitulate to oppressive legal standards but to serve a higher purpose of justice. My hope would be my colleagues on the board would take their calling seriously, fight in court if necessary and work for change in the legislature. Not simply roll over and accept a grave injustice.

Rest assured this issue will continue to get a great deal of national attention and reflect badly on your fine state. My hope is this shame may yet lead to some sort of repair.

Yours truly,

---

John Bruels

## National Social Worker Code of Ethics violation

Kellie Scott <kellie.scott@ymail.com>

Thu 10/15/2020 9:06 PM

To: enforcement <enforcement@bhec.texas.gov>; general <general@bhec.texas.gov>

Texas State Board of Social Worker Examiners,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

It is inhumane to discriminate services based upon sexual orientation, gender identity, and gender expression. If unknown where this goes against the Social Worker Code of Ethics, please read the following:

- 4.02 Discrimination - Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

1. That you no longer move forward with this change and publicly recognize the harm that came from this procedure change.
2. I also demand you discuss with the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

Kellie Scott, MSW

## LGBTQI and Social Work Code of Ethics

Beth Senger <bsenger@epccinc.org>

Thu 10/15/2020 6:22 PM

To: general <general@bhec.texas.gov>

Behavioral Health Executive Committee of Texas,

I am a social worker in Texas working in El Paso. I am profoundly disturbed the Behavioral Health Executive Council is interfering with the national professional Code of Ethics for the field of social work by removing protections against discrimination of persons who identify as "other than" heterosexual and gender normative. All Social Workers across the country are bound to the National Association of Social Workers Code of Ethics. It is grossly inappropriate for there to be any difference in Texas. I see this as a politically motivated change rather than a change motivated by professional ethics.

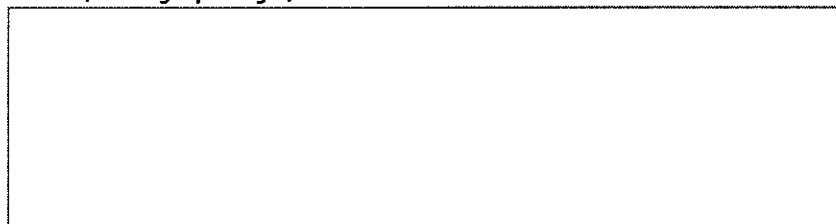
My organization works specifically with victims of trafficking, thanks in part to funding from the Office of the Governor's Child Sex Trafficking team. LGBTQI persons are particularly vulnerable to this heinous crime. They must be afforded formal protection against discrimination by any and all service providers in Texas. We know that this should be a basic human right, but narrow-minded service providers/organizations may turn away these clients or provide them with insensitive and inappropriate services if not governed to treat them equitably.

I am strongly advocating to the Governor's Office that you be urged to pull down this change immediately and post it to the Texas Register for comments. I further urge you to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under your administration.

If you have any questions I can be reached at 915-269-1148.

Beth

***"I feel very humble and little when I try to serve the people of El Paso and the Southwest, knowing the bigness of their hearts." -- Kathleen Moore, Superintendent, Southwestern Children's Home (one of our two founding orphanages)***



**Beth Senger, MSW**

CEO

2200 N. Stevens St.

El Paso, TX 79930

(915) 565-8361 -- Work

(915) 269-1148 -- Mobile

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## Social Work Code of Ethics

denemccracken@gmail.com <denemccracken@gmail.com>

Thu 10/15/2020 6:36 PM

To: naswtex.naswtx@socialworkers.org <naswtex.naswtx@socialworkers.org>; licensing <licensing@bhec.texas.gov>; enforcement <enforcement@bhec.texas.gov>; general <general@bhec.texas.gov>

To parties of concern,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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Any changes to our Code of Ethics and practices need to be discussed with the people that work in this field through a public forum in which public comment is allowed.

As a Social Worker that is affected by these changes, I demand the following:

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It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

Sent from my iPhone



## TSBSWE decision

Joclyn Tiedt <joclyntiedt@gmail.com>

Thu 10/15/2020 6:36 PM

To: licensing <licensing@bhec.texas.gov>; enforcement <enforcement@bhec.texas.gov>; general <general@bhec.texas.gov>

To all relevant parties,

Social Workers across the nation are disgusted at the actions taken by the Texas State Board of Social Worker Examiners (TSBSWE) by accepting discriminatory language into the ways we practice mental health as mental health professionals. Not only is this language directly against the National Social Worker Code of Ethics, it also code against the Texas Administrative Code (Title 22 - Part 34 - Chapter 781 - Subchapter B - Rule 781.201 - A(s)) which reads "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."

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As a Social Worker that is affected by these changes, I demand the following:

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It is not too late to recognize the harm that would come from these initiatives, whether unintentional or intentional harm, and do better. Social Workers across the national as well as folks receiving mental health services are counting on you.

Thank you,

Joclyn Tiedt

## RE: TSBSWE Rule Change

valerie wells <valerieohwells@gmail.com>

Thu 10/15/2020 4:30 PM

To: general <general@bhec.texas.gov>

Hello,

I am writing express my dismay over the changes in the code of conduct in the TAC for social workers. This change is antithetical to the spirit and ethics of social work as a profession.

Our code of ethics states that it is unethical to refuse service to anyone based on sexuality, gender identity, gender expression, and disability. The removal of this from our anti-discrimination clause in the code of conduct is now making it legal for social workers to behave unethically in the state of Texas. This is incredibly troublesome and not in line with the ethics and values of the profession.

This change voted on unanimously by our board is extremely troubling and has farther reaching implications. How can any of us trust the regulatory and guidance of professionals that would vote for a rule that is direct opposition to our code of ethics? How can our clients trust us as professionals when our own licensing and regulatory body has just signaled to them that only some of them are worthy of anti-discrimination protections? How can anyone trust us to behave ethically now when our regulatory body has just signaled that that is no longer illegal?

Our profession has officially broken the trust of the public with this rule change. It is disappointing and makes me ashamed to carry the title of social work at this time.

I urge you to fix this and change this rule back to the way it was to preserve the dignity of our profession, the worth of our clients, and earn back the trust of the public, the most vulnerable public might I add, who rely on social workers for service and as advocates.

Regards,

Valerie Wells, LMSW

"My optimism wears heavy boots and is loud." - Henry Rollins

## Upcoming SW Board Meeting

Susan Lingle <susan.lingle@hotmail.com>

Thu 10/15/2020 3:53 PM

To: general <general@bhec.texas.gov>

I have attempted to contact the BHEC by phone several times today and there is no answer. There is a message now playing that all lines are busy and then it hangs up on the caller. It needs to be clearly available when and how we can attend the meeting on Oct 27, 2020.

I am a Licensed Master Social Worker and a Licensed Professional Counselor in the State of Texas. I was calling and am now emailing to get access to the upcoming BHEC SW meeting on Oct 27, 2020. I have had to take time off of work so that I can attend this meeting virtually. This board was established to be of better service to those of us who make up the BHEC but today it sure doesn't feel that way. The SW Board can't handle the LCSW applications it is currently getting but instead can vote to support unethically and discriminatory practices.

The cowardly way the Board voted to openly allow discrimination against those in the LBGTQ and disability community was disgusting and unethical. No notice or information provided to those of us holding license. I hope everyone on the board fully understands the righteous angry that is now focused on them and it is my hope that this angry grows so that it will push the change needed so that everyone has equal protection. So many on the Social Work Board hold professional licenses and I am embarrassed to be forced to call you a colleague, a fellow Social Worker.

I shouldn't have to take time of work, time away from my clients, to advocate to the BHEC and especially the Social Work Board to not discriminate but here we are.

Susan Lingle, MRC, LPC, LMSW  
Certified Rehabilitation Counselor  
Certified Case Manager

## Change in conduct rules for social workers

fitterhmohair@gmail.com <[fitterhmohair@gmail.com](mailto:fitterhmohair@gmail.com)>

Thu 10/15/2020 3:33 PM

To: general <[general@bhec.texas.gov](mailto:general@bhec.texas.gov)>

I ask that this goes straight to the board member for the social work examiners board. As a seasoned LCSW social worker that has committed my career to practicing in Texas, I'm horrified that the board would approve a measure condoning actions that counter our professional values and do so without providing us the opportunity to speak to it prior . To allow is to encourage - the rule providing professional social workers the right to discriminate against a client based on a disability, gender identity and/or sexual orientation is patently wrong . The board sets the standard for practice and this decision will hurt vulnerable people . I understand the context of trying to align with an archaic state law - but conforming without pushing back AND not allowing the members of the profession the opportunity to assist in holding the line that is our values is dishonest and calls into question the character of the board that represents us . It's embarrassing and it's wrong.

Rachele Misiti, LCSW-S

**Do not allow discrimination on the basis of sexual orientation, disability status, or gender identity**

Rebecca Hickey <blynnhickey@gmail.com>

Wed 10/14/2020 10:06 PM

To: general <general@bhec.texas.gov>

Hello,

It is appalling that a state board would decide to allow social workers to discriminate against clients on the basis of sexual orientation, gender, or having a disability. This is an embarrassment to the county and a stain on this state. This decision must be reversed immediately.

Thanks,  
Rebecca Hickey  
913.544.9311

## change to the TX Register's Code of Conduct for Social Workers

Aileen Fullchange <afullchange@momentousinstitute.org>

Tue 10/13/2020 6:37 PM

To: general <general@bhec.texas.gov>

To Whom It May Concern:

It has come to my attention that there has been a change to the TX Register's Code of Conduct for Social Workers that removes protections regarding sexual orientation and gender identity and expression. This change cannot stand, as it flies in the face of our Code of Ethics, Code of Conduct as originally adopted by the Board and the very foundation that social work was built upon.

I ask that this change be rescinded immediately.

**AILEEN FULLCHANGE, PH.D.**  
MULTILINGUAL LICENSED PSYCHOLOGIST

**momentous**  
**institute**  
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PHONE: 214.916.4043

LOCATION: 9705 HARRY HINES BLVD | DALLAS, TX 75220

EMAIL: AFULLCHANGE@MOMENTOUSINSTITUTE.ORG



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## proposed Code of Conduct Change

Adam MacDonald <[adammacdonaldtherapy@gmail.com](mailto:adammacdonaldtherapy@gmail.com)>

Mon 10/12/2020 10:57 PM

To: general <[general@bhec.texas.gov](mailto:general@bhec.texas.gov)>

Hello,

I hear there was a change made to the Code of Conduct during today's BHEC meeting with TSBSWE regarding dropping the protections for those based on sexuality and gender identity. Is this true? When will this rule be applied?

Warmly,  
Adam

--

Adam MacDonald LCSW (he/him/his)  
[adammacdonaldtherapy@gmail.com](mailto:adammacdonaldtherapy@gmail.com)  
Cell: 512-348-6022

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**attn: Gloria Canseco, M.A., concerning Code of Conduct 781.201**

Welby Pinney <[wpinney@momentousinstitute.org](mailto:wpinney@momentousinstitute.org)>

Tue 10/13/2020 8:45 PM

To: general <[general@bhec.texas.gov](mailto:general@bhec.texas.gov)>

Ms. Canseco,

The last minute change in the Social Work Code of Conduct proposed (and accepted), which removes protections for clients due to sexual orientation, gender identity, and expression, is offensive and contrary to the Social Work Code of Ethics, Social Work Code of Conduct, and is antithetical to the principals of professional Social Work.

To be clear, both the process and content of this change is offensive. And, in keeping with the governor's character.

Welby Pinney, LCSW

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## Proposed changes to Social Work Code of Ethics

Gayle Marshall <gaylemarshall@airmail.net>

Tue 10/13/2020 9:33 PM

To: general <general@bhec.texas.gov>

Cc: Gayle Marshall <gaylemarshall@airmail.net>

Hello.

I am a Licensed Clinical Social Worker, license #00398, and I am writing about proposed changes to the Social Work Code of Ethics. I urge you to please leave in protections for clients on the basis of "sexual orientation, gender identity and expression." This wording insures equal treatment for these groups of clients.

Thank you.

Gayle E. Marshall, LCSW

**Fiscal Management**  
**Glenn Hegar**  
Texas Comptroller of Public Accounts

## Expenditures Related to State Officers and Employees

# Reimbursement for Telecommunications/Telework Expenses

### Reimbursement for state use of personal cellular phone, smartphone, and internet services

State agencies may reimburse an employee for personal cellular phone, smartphone, (i.e. Android, iPhone, etc.), hotspot device or internet service usage if the following conditions are met:

- The agency has an established written policy detailing how the charges will be reimbursed.
- The device and/or internet service was used to conduct state business.
- Usage was reasonable and necessary.

In detailing how charges will be reimbursed, the agency may, for example, use a flat reimbursement rate per minute for all business-related cellular phone or smartphone charges, such as .07 cents per minute; or the agency may prorate the total charges (less features), surcharges and taxes and reimburse the portion spent for business purposes.

Reimbursement is limited to the actual cost of the service. An agency is not responsible for reimbursing equipment charges due to plan initiation, or for lost, stolen or damaged equipment. Reimbursements may be allowed for certain features such as text messaging and downloads necessary to conduct official state business.

When an agency reimburses any portion of personal device charges, all transmissions on the device including texts, internet searches, etc. could be subject to a Public Information Act (PIA) (**Texas Government Code, Chapter 552**) inquiry via open records.

Reimbursement may be requested with a purchase or travel voucher, if the employee was traveling at the time the expenses were incurred.

### Telecommuting/Telework

Agencies may establish a policy for their employees that allows for telecommuting or working from home. This policy should contain an agreement between the employee and the agency regarding the use of, and payment of internet connections, office supplies and any other equipment needed for the employee's work environment at their residence workstation. When employees work from home, they are responsible for communication connections, including phone and internet. If an employee does not have an internet connection, the agency could purchase a hotspot device (or reimburse an employee who purchases one) to use when working from home. The device would then become state property, must only be used for official state business and must be returned to the agency when no longer needed. Data from the hotspot device could be subject to open records

requests through a PIA inquiry. Agencies should refrain from establishing a direct-billed internet connection at the employee's home because all transmissions could be subject to open records requests and the internet usage would be limited to state business use only. However, an agency may reimburse a flat rate for internet services each month for an employee who participates in a telework or telecommute program.

Agencies can also provide an employee with a state-issued cell phone. The phone could only be used for state business, and all calls and text messages could be subject to open records requests through the PIA.

An agency's telework policy should state the adherence to the requirements of Texas Government Code Chapter 552 regarding public information, and any restrictions imposed by the agency.

### **Documentation Requirements**

1. A state agency must retain documentation in its files showing compliance with the requirements set forth in the agency's internal policy for reimbursing business-related expenses for a personal cell phone, smartphone or personal internet services.
2. Comptroller object 7516 – Telecommunications – Other Service Charges, must be used for cell phone/smartphone usage.
3. Comptroller object 7105, 7115 or 7121, as applicable, must be used when claimed on a travel voucher for cell phone/smartphone usage.
4. Comptroller object 7517 – Personal Property –Telecommunications Equipment Expensed, must be used for cell phone/smartphone purchases.
5. Comptroller object 7276 – Communications Services, must be used for internet services.

**LEGISLATIVE APPROPRIATIONS REQUEST  
FOR FISCAL YEARS 2022-2023**

Submitted to the  
Governor's Office of Budget and Planning  
and the Legislative Budget Board

by

**TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL**

**OCTOBER 9, 2020**

<u>Council Member</u>	<u>Date of Term</u>	<u>Hometown</u>
Gloria Canseco, M.S.	2019-2025	San Antonio
Dr. h.c. Sarah Abraham	2019-2021	Sugar Land
John K. Bielowicz	2019-2022	Waxahachie
Timothy M. Brown, M.S.W.	2019-2021	Dallas
Steve Christopherson, M.S.	2019-2022	Pasadena
Susan Fletcher, Ph.D.	2019-2021	Plano
George F. Francis, IV, M.B.A.	2019-2021	Georgetown
Ben Morris, M.Ed.	2019-2022	Cleburne
Jennifer Smothermon, M.A.	2019-2022	Abilene

## TABLE OF CONTENTS

Administrator's Statement	1
Agency Organizational Chart	7
Certificate of Dual Submission	8
Summary of Base Request by Strategy	9
Summary of Base Request by Method of Finance	11
Summary of Base Request by Object of Expense	14
Summary of Base Request Objective Outcomes	15
Summary of Exceptional Items Request	16
Summary of Total Request by Strategy	17
Summary of Total Request Objective Outcomes	19
Strategy Request	20
Program Level Request	33
Rider Revisions and Additions	34
Exceptional Item Request Schedule	35
Exceptional Items Strategy Allocation Schedule	39
Exceptional Items Strategy Request	42
Capital Budget Project Schedule	44
Capital Budget Allocation to Strategies	46
Capital Budget Operating and Maintenance Expenses	47
Capital Budget Project – OOE and MOF Detail by Strategy	48
Historically Underutilized Business Supporting Schedule	50
Current Biennium One Time Expenditure Schedule	52
Estimated Revenue Collections Supporting Schedule	53
Indirect Administrative and Support Costs	56

510 Behavioral Health Executive Council

ADMINISTRATOR'S STATEMENT

Council Member	Date of Term	Hometown
Gloria Canseco, M.A.	2019-2025	San Antonio
Dr.h.c. Sarah Abraham	2019-2021	Sugarland
John K. Bielamowicz	2019-2022	Waxahachie
Timothy M. Brown, M.S.W.	2019-2021	Dallas
Steve Christopherson, M.S.	2019-2022	Pasadena
Susan Fletcher, Ph.D.	2019-2021	Plano
George Francis, IV, M.B.A.	2019-2021	Georgetown
Ben Morris, M.Ed.	2020-2022	Cleburne
Jennifer Smothermon, M.A.	2019-2022	Abilene

OVERVIEW

The Texas Behavioral Health Executive Council was created with the passage of Tex. H.B. 1501, 86th Leg., R.S. (2019) following consecutive reviews of its member boards by the Sunset Advisory Commission. The Council consists of the Texas State Board of Examiners of Marriage and Family Therapists, Texas State Board of Examiners of Professional Counselors, Texas State Board of Examiners of Psychologists, and the Texas State Board of Social Worker Examiners.

The Council is designed to ensure that behavioral health services and social work practice are provided by qualified and competent practitioners who adhere to established professional standards, and is guided by the seasoned wisdom of its member boards in abiding by its mission and philosophy.

1. EXCEPTIONS TO BASELINE REQUEST LIMITATION

The Council does not administer any programs identified in the Policy Letter as exceptions to the baseline request limitation.

2. SIGNIFICANT CHANGES IN POLICY

The most significant change in policy affecting the Council is the transfer of regulatory authority from the Texas State Board of Examiners of Marriage and Family Therapists, Texas State Board of Examiners of Professional Counselors, Texas State Board of Examiners of Psychologists, and the Texas State Board of Social Worker Examiners to the Council under H.B. 1501. While each member board retains exclusive authority over the origination of rules related to those matters set out in Section 507.135 of the Occupations Code, the Council is granted exclusive authority to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Occupations Code and

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**510 Behavioral Health Executive Council**

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adopt rules as necessary to perform its duties. This transfer of regulatory authority represents a significant change from how each of the member boards previously operated, i.e., TSBEP was an independent stand-alone agency while the remaining independent boards were administratively attached to HHSC.

In accordance with Section 4.007(b) of H.B. 1501, the Council adopted the rules found in 22 TAC Part 41 at its June 16, 2020 meeting. The rules were proposed and published in the April 24, 2020 edition of the Texas Register and again published in the July 10, 2020 edition following adoption. The rules were made effective September 1, 2020 and replaced or superseded each member board's procedural rules. Apart from the newly adopted procedural rules that now govern licensing and investigations, some of the most significant policy changes brought about by H.B.1501 were the adoption of the Psychology Interjurisdictional Compact (PSYPACT); changes related to the post-doc year and the recognition of licensure in other jurisdictions in psychology; and the repeal of the minimum number of hours of direct clinical services statutorily required for marriage and family therapists.

The Council is currently in the process of repealing and making changes to each member board's rules to avoid duplication and conflicting provisions and expects to have these changes adopted at its October 27th meeting. The Council however, does anticipate the need for additional rule review and changes to fully standardize certain processes as well as implement the changes recommended by the OOG's Budget and Policy Division. By way of example, additional rulemaking will be needed to standardize the list of criminal convictions directly related to the practice of each regulated profession; repeal certain requirements related to supervision plans used in social work licensure; and to give full effect to the intent and spirit behind Chapter 55 of the Occupations Code.

### 3. SIGNIFICANT CHANGES IN PROVISION OF SERVICES

**A. Merger of Licensing Databases.** The Council successfully combined the database information from each of the programs transferred from HHSC with the shared database managed by the Health Professions Council, which already housed the licensing information for the Texas State Board of Examiners of Psychologists.

**B. Expanded Use of Online or Cloud-based Systems.** The Council is actively working to migrate several of its regulatory functions to online or cloud-based systems. 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. Yet, as technology advances, so do the citizen expectations for easier, more secure, and constantly connected access to government services. 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.

With the foregoing in mind, the Council has entered into an agreement with the Association of Social Work Boards whereby ASWB will process all requests for exam eligibility by social work applicants. Individuals wishing to apply for social worker licensure with the Council will be required to apply for exam eligibility with ASWB before applying for licensure with the Council. ASWB will use the Council's rules to determine exam eligibility and the Council will review and approve or deny access to the exam for any questionable applicants. The Council however, will remain responsible for processing the actual application for licensure, which will not be submitted until after the exam has been passed. This change is being undertaken to resolve the backlog of applicants requesting exam eligibility.

Additionally, the Council is actively working toward moving all licensing applications for marriage and family therapy, counseling, and social work, into an online format. Once the instructions and database changes needed to implement the online applications have been finalized, the use of online applications will become mandatory. This should reduce the amount of mail and email that staff must handle or review when collecting and assimilating the supporting documentation submitted by applicants.

**C. Temporary Changes to Licensing Process.** The Council is temporarily changing the licensing procedures used for LCSW applicants so that applicants with timely

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**510 Behavioral Health Executive Council**

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supervised experience (i.e., experience within the 5 years preceding the date of application) are made exam eligible while their application is pending final review. Applicants will remain subject to all license qualifications, including supervised experience requirements, but the determination of whether an applicant meets these qualifications will take place after the applicant has passed the national exam, rather than before. This change is being undertaken to avoid delaying exam eligibility for LCSW applicants.

D. Rule Changes to Address Licensing Backlog. The Council is actively reviewing licensure rules to determine whether any rule changes are needed to reduce undue regulatory burdens on applicants and licensees and streamline agency operations. By way of example, the TSBSWE has voted to propose repeal of the requirement that supervision plans be submitted for approval to the agency. The requirement that supervision plans be submitted and approved by the agency has been identified as a significant contributing factor to the backlog impacting social worker applicants. The Council has scheduled a joint session with TSBSWE for October 12th to consider these rule changes. If adopted, these changes should free up significant staff time which can then be allocated to the actual processing of license applications.

#### 4. SIGNIFICANT EXTERNALITIES

A. Increasing Number of Licensees. 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 these individuals in many venues, including public schools, private practice, organizational settings, court proceedings, as well as in many exempt settings. At the close of FY2020, the Council began regulating 69,186 licenses. This number includes 527 MFT Associates; 3,370 MFTs; 4,516 LPC Interns; 23,929 LPCs; 5,485 psychologists; 889 LPAs; 3,848 LSSPs; 4,345 LBSWs; 12,033 LMSWs; 10,054 LCSWs; and 190 temporary social worker licenses. We also know that the number of licenses under regulation by this agency has increased by 13.15% since 2016 (46.64% since 2009), and that employment of behavioral health providers is expected to be much faster than the average for all occupations through 2028. More specifically, the following reflects the projected employment growth for each type of licensed provider through 2028: 22% for LPCs; 22% for MFTs; 14% for psychologists; and 11% for social workers.

B. Licensing Backlog from HHSC. In connection with the transition of the marriage and family therapy, counseling, and social work programs transferred from HHSC on September 1st, the Council has assumed regulatory control over all the license applications pending before those programs while they were administratively attached to HHSC. While the marriage and family therapy program does not suffer from a backlog in its licensing functions, the counseling and social work programs are suffering from significant backlogs in license applications.

NOTE: The following numbers include both unreviewed applications and applications that have been reviewed by staff but are awaiting additional information from the applicant/requestor before further processing can occur; these figures DO NOT represent the backlog.

The Council currently has a total of 883 LPC applications and 3,760 SW applications pending. The following is a breakdown of those pending applications with an estimate of the unreviewed applications appearing in parentheses:

- 731 LPC-Intern applications (308 unreviewed);
- 113 LPC upgrade (from LPC-Intern) applications;
- 39 LPC out-of-state applications (15 unreviewed);
- 196 LBSW exam requests (32 unreviewed);
- 862 LMSW exam requests (204 unreviewed);
- 47 LCSW exam requests;



### 510 Behavioral Health Executive Council

- 216 LBSW applications;
- 15 LBSW out-of-state applications (5 unreviewed);
- 1,372 LMSW applications;
- 81 LMSW upgrade (from LBSW) applications;
- 186 LMSW out-of-state applications (51 unreviewed);
- 13 LCSW applications;
- 503 LCSW upgrade (from LMSW) applications;
- 235 LCSW out-of-state applications (65 unreviewed);
- 34 temporary SW applications.

The current backlogs in the counseling and social work programs were caused by several factors that occurred earlier this year. These factors include such things as significant staff attrition (i.e. approximately 50% capacity) within the PLCU; a delay in issuing laptops to PLCU staff until mid to late June for remote work; significant limitations on the ability of PLCU staff to remotely access the regulatory database housed within DSHS's database system; and significant health issues within the PLCU staff ranks that resulted in staff being absent from work for longer periods of time than normal, thereby reducing productivity.

C. Impact of C19 on Agency Operations. C19 has impacted virtually all aspects of the Council's operations. Agency staff are permitted to work from home with permission from their supervisor after consultation with the Executive Director. While certain agency functions are easily carried out while working remotely (e.g., conducting investigations and writing investigation reports), other functions such as licensing, are more difficult to carry out remotely. Presently, Licensing Division staff are required to work at least 24 hours in the office each week, with the remaining hours worked from home. While this arrangement is certainly not ideal, the Council is attempting to strike a delicate balance between the needs of launching a new agency and the unique difficulties that accompany such an endeavor, with the health and safety concerns for its staff and their families amidst the pandemic. Additionally, since the onset of the pandemic and the increased use of telecommuting by employers, the Council has noticed an increased interest in working remotely by staff. In fact, the Council has already experienced turnover due in-part to staff taking a position with another agency that allowed the person to work 100% remotely from home. Lastly, the added uncertainty of school re-openings and in-person vs. virtual attendance, has imposed a significant burden on agency leadership and staff in striking a balance between the needs of staff and those of the agency. The Council is currently investigating ways it can track the efficiency and effectiveness of staff working remotely and whether such is a sustainable method for delivering services to the public in agency functions such as licensing.

D. Contract with ASWB. The Council has entered into an agreement with the Association of Social Work Boards (ASWB) whereby ASWB will process all requests for exam eligibility by social work applicants, that number being approximately 2,500 each year. Individuals wishing to apply for social worker licensure with the Council will be required to apply for exam eligibility with ASWB before applying for licensure with the Council. ASWB will use the Council's rules to determine exam eligibility and the Council will review and approve or deny access to the exam for any questionable applicants. The Council however, will remain responsible for processing the actual application for licensure, which will not be submitted until after the exam has been passed. This contractual relationship was established to resolve the backlog of social worker applicants requesting exam eligibility and prevent any future recurrence of a backlog.

E. Move to New Capitol Complex Facility. The Council is scheduled to move into the George HW Bush State Office Building following its completion in May of 2022. The Texas Facilities Commission will cover the costs of the move, basic finish-out of the new space and common space furnishings (i.e., modular furniture), and has requested that the Council limit the move of current furnishings located in the Hobby Building. The Council will be required to cover the costs of interior office furniture, telecom infrastructure, and other build-out items not covered by the Texas Facilities Commission.

510 Behavioral Health Executive Council

5. PURPOSE OF NEW FUNDING REQUESTED (Exceptional Items for 2022-23 ranked in order of priority)

A. Request for Additional FTEs. The Council received 11,917 applications in FY2020, with 3,799 applications in the LPC program and 5,829 applications in the social work program; these numbers are expected to grow based upon the mental health workforce shortage in the state and historical data. Moreover, each of these programs receive hundreds of emails, phone calls, and pieces of mail each week which must be processed separate and apart from the actual review of the applications.

The Council currently has 5 FTEs assigned to the Social Work Program and 3 FTEs assigned to the LPC program. The Council reassigned one of its IT positions to the LPC program and will reassign one additional FTE position from the LMFT program, bringing the total FTEs assigned to the LPC program to four. Despite these reassignments, when these staffing levels are compared to the staffing levels for the psychology (1357 apps./yr with 2 FTEs) and LMFT (832 apps./yr with 1 FTE) programs, both of which are operating efficiently with no backlogs, the LPC and social work programs remain understaffed.

More specifically, the Council has determined that it needs to hire three additional licensing and permit specialists and one additional administrative assistant to address the volume of emails, phone calls, and license applications received from individuals seeking licensure as an LPC or social worker. The LPC program needs 2 additional FTEs and the social work program needs 1 additional FTE to address both the current and future workload. Furthermore, 1 additional administrative assistant is needed to provide support for both the existing licensing staff as well as the additional licensing and permit specialists requested herein.

Current staffing levels have simply proven inadequate for allowing the agency to process incoming applications, address the licensing backlog, and respond to the volume of emails and phone calls received (i.e., the third operational goal set forth in the Council's strategic plan) and has resulted in the agency having to prioritize the processing of applications over providing responsive information in a timely and efficient manner. This has led to a great deal of understandable stress and frustration from both stakeholders and staff alike, and will likely translate into higher staff turnover if the requested relief is not granted.

Therefore, the Council respectfully requests 4 additional FTEs and additional funds for the biennium totaling \$288,320 for salary, benefits, and new employee costs.

B. Move to New Capitol Complex Facility. The Council is scheduled to move into the George HW Bush State Office Building following its completion in May of 2022. The Texas Facilities Commission will cover the costs of the move, basic finish-out of the new space and common space furnishings (i.e., modular furniture), and has requested that the Council limit the move of current furnishings located in the Hobby Building. The Council will be required to cover the costs of interior office furniture, telecom infrastructure, and other build-out items not covered by the Texas Facilities Commission.

While specific quotes and bids are not yet available, the agency is estimating complete modular suites (including file cabinets, bookcases and chairs) for the 20 interior offices at \$80,000 (\$4,000 each), conference room table and chairs at \$5,000, and IT cabling and equipment costs of \$10,000.

Therefore, the Council respectfully requests additional funds for the biennium totaling \$95,000 for office furnishings and IT cabling and equipment. The Council will update this exceptional item as better estimates are obtained.

C. Fee Reduction and Resulting Loss of General Revenue. The Council has been requested to provide information on additional appropriations needed or the loss to general revenue if the agency were to reduce its licensing fees to 75% of the national average if the current fees exceed that figure. In accordance with this directive, if the agency were to set its licensing fees at 75% of the national average for those fees which exceed that figure, the agency would lose over \$1.98 million in general revenue

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**510 Behavioral Health Executive Council**

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over the biennium.

For 2022-2023, the Council expects to collect \$2.8 million in general revenue over and above what it is appropriated plus any indirect costs (state paid retirement, state paid insurance, etc.) Therefore, the Council would still be able to cover the cost of operations and would not have to ask for additional funding. However, the excess amount the Council collects and returns to general revenue would decrease by \$1.98 million per biennium.

**6. SUMMARY EXPLAINING APPROACH IN ESTIMATING COSTS/SAVINGS RELATED TO IMPLEMENTATION OF FEDERAL HEALTHCARE REFORM**

The implementation of federal healthcare reform has not resulted in any added costs or savings to this agency.

**7. BACKGROUND CHECKS**

A. Statutory Authority to Conduct Background Checks. Sections 507.251 and 507.257 of the Occupations Code, together with Sections 411.122 and 411.087 of the Government Code provide the Council with authority to obtain DPS and FBI criminal history record checks on applicants and licensees. Additionally, Section 411.135 of the Government Code allows the Council to obtain public criminal history information on its employees. Article 66.104 of the Code of Criminal Procedure requires the Council to obtain quarterly DPS criminal record checks on all licensees at a set cost.

B. Background Check Procedures. The Council secures background checks on its employees as needed, on all applicants when they apply, on any individual requesting a criminal history evaluation, and on any licensee it has reason to suspect may have an unreported record. In March of 2021 the Council will begin requiring fingerprint criminal history record checks on all applicants for renewal if they have not previously undergone a fingerprint background check for this agency. Once an applicant or licensee undergoes a fingerprint background check, the agency is automatically provided with any new criminal history information on that individual through the DPS/FBI rap back program. Additionally, applicants and licensees are required to report any convictions or final dispositions of criminal charges to the Council. Failing to report such matters will result in disciplinary action against a licensee and may result in the denial of licensure or an eligibility proceeding against an applicant.

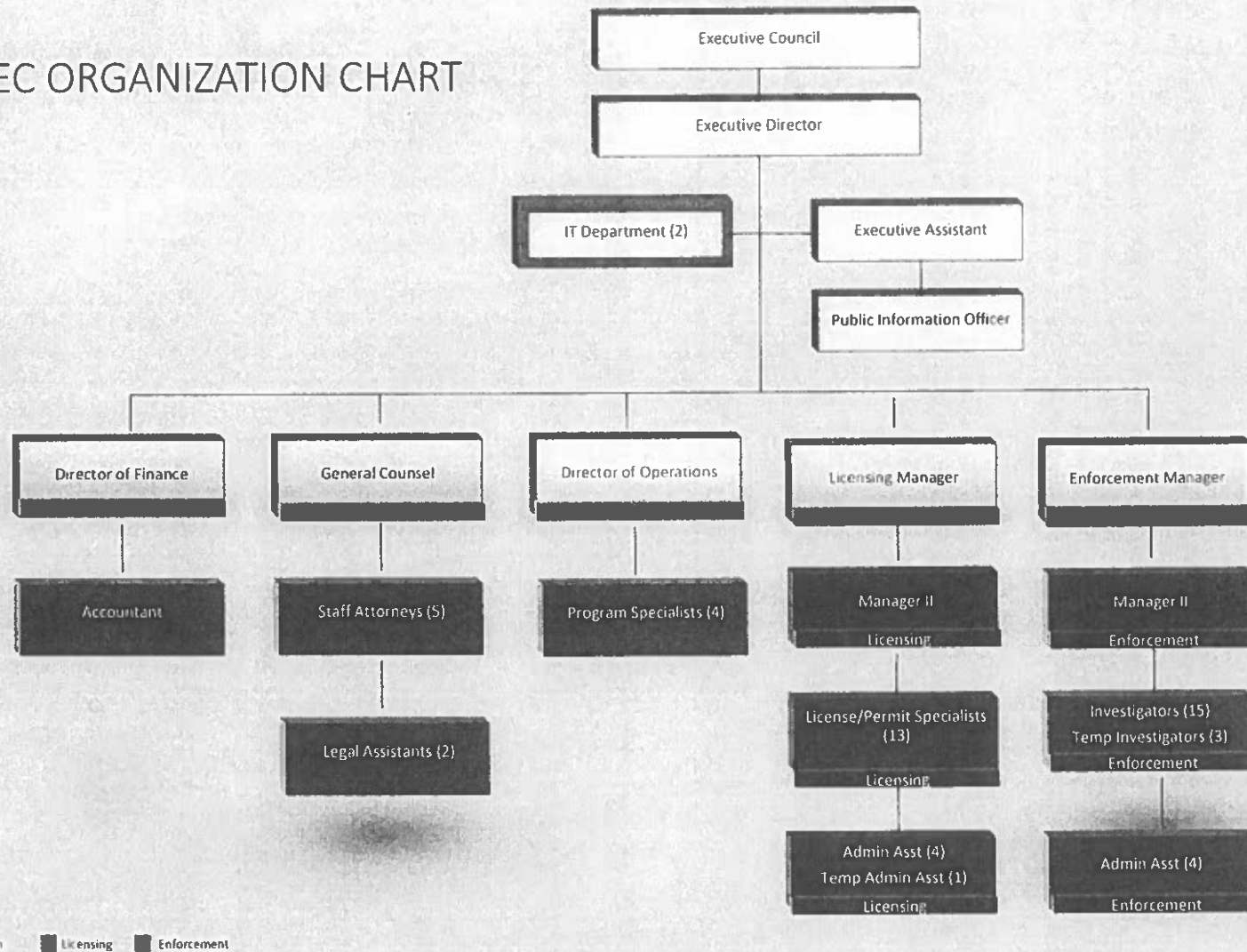
**8. TRANSITION TO CAPPs SYSTEM**

The Council has been set up on CAPPs HR/Payroll but the CPA has not yet scheduled the Council for transition to CAPPs Financials.

**CONCLUSION:**

The Council has been designed to conserve state funds and to administer and enforce Chapters 501, 502, 503, 505, and 507 of the Occupations Code as efficiently and effectively as possible. This design allows the agency to operate on considerably less funding than the amount of revenue generated. The Council believes however, that it must take steps to ensure the needs and expectations of its stakeholders are met, both now and in the future. Therefore, the Council must ask for additional funding from the Legislature for the 2022-23 biennium.

# BHEC ORGANIZATION CHART





## CERTIFICATE

Agency Name Texas Behavioral Health Executive Council

This is to certify that the information contained in the agency Legislative Appropriation Request filed with the Legislative Budget Board (LBB) and the Governor's Office Budget Division (Governor's Office) is accurate to the best of my knowledge and that the electronic submission to the LBB via the Automated Budget and Evaluation System of Texas (ABEST) and the PDF file submitted via the LBB Document Submission application are identical.

Additionally, should it become likely at any time that unexpended balances will accrue for any account, the LBB and the Governor's Office will be notified in writing in accordance with Article IX, Section 7.01 (2020-21 GAA).

**Chief Executive Officer or Presiding Judge**

Darrel Spinks  
Signature

Darrel D Spinks  
Printed Name

Executive Director  
Title

10/9/20  
Date

**Board or Commission Chair**

Gloria Canseco  
Signature

Gloria Canseco  
Printed Name

Council Chair  
Title

Oct 9, 2020  
Date

**Chief Financial Officer**

Jennifer Noack  
Signature

Jennifer Noack  
Printed Name

Chief Financial Officer  
Title

10/9/20  
Date

## 510 Behavioral Health Executive Council

Goal / Objective / STRATEGY	Exp 2019	Est 2020	Bud 2021	Req 2022	Req 2023
<b>1</b> Protect Public through Quality Program of Licensure					
<b>1</b> Ensure Practitioners Meet Standards for Licensure					
<b>1</b> LICENSING	0	317,504	1,799,776	2,541,184	2,541,184
<b>2</b> TEXAS.GOV	0	0	135,244	136,000	136,000
TOTAL, GOAL <b>1</b>	\$0	\$317,504	\$1,935,020	\$2,677,184	\$2,677,184
<b>2</b> Protect the Public through Enforcement of Laws and Rules					
<b>1</b> Ensure All Practitioners Comply with Established Laws and Rules					
<b>1</b> ENFORCEMENT	0	317,504	2,022,285	1,907,333	1,907,333
TOTAL, GOAL <b>2</b>	\$0	\$317,504	\$2,022,285	\$1,907,333	\$1,907,333
<b>3</b> Indirect Administration					
<b>1</b> Indirect Administration					
<b>1</b> INDIRECT ADMINISTRATION	0	0	38,600	33,400	33,400

## 510 Behavioral Health Executive Council

Goal / Objective / STRATEGY	Exp 2019	Est 2020	Bud 2021	Req 2022	Req 2023
TOTAL, GOAL 3	\$0	\$0	\$38,600	\$33,400	\$33,400
TOTAL, AGENCY STRATEGY REQUEST	\$0	\$635,008	\$3,995,905	\$4,617,917	\$4,617,917
TOTAL, AGENCY RIDER APPROPRIATIONS REQUEST*				\$0	\$0
GRAND TOTAL, AGENCY REQUEST	\$0	\$635,008	\$3,995,905	\$4,617,917	\$4,617,917
<u>METHOD OF FINANCING:</u>					
<b>General Revenue Funds:</b>					
1 General Revenue Fund	0	635,008	3,979,917	3,729,917	3,729,917
SUBTOTAL	\$0	\$635,008	\$3,979,917	\$3,729,917	\$3,729,917
<b>Other Funds:</b>					
666 Appropriated Receipts	0	0	15,988	888,000	888,000
SUBTOTAL	\$0	\$0	\$15,988	\$888,000	\$888,000
TOTAL, METHOD OF FINANCING	\$0	\$635,008	\$3,995,905	\$4,617,917	\$4,617,917

\*Rider appropriations for the historical years are included in the strategy amounts.

2.B. Summary of Base Request by Method of Finance  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABLES)

10/9/2020 9:22:57AM

Agency code: 510		Agency name: Behavioral Health Executive Council				
METHOD OF FINANCING		Exp 2019	Est 2020	Bud 2021	Req 2022	Req 2023
<b><u>GENERAL REVENUE</u></b>						
<b><u>1</u> General Revenue Fund</b>						
<i>REGULAR APPROPRIATIONS</i>						
Regular Appropriations from Table (2020-21 GAA)		\$0	\$885,008	\$3,729,917	\$0	\$0
Regular Appropriations from Table (2022-2023)		\$0	\$0	\$0	\$3,729,917	\$3,729,917
<i>LAPSED APPROPRIATIONS</i>						
Regular Appropriations from Table (2020-2021 GAA)		\$0	\$0	\$0	\$0	\$0
<i>UNEXPENDED BALANCES AUTHORITY</i>						
GAA, 86th Leg, Art IX, Section 14.05		\$0	\$250,000	\$250,000	\$0	\$0
<b>TOTAL, General Revenue Fund</b>		<b>\$0</b>	<b>\$635,008</b>	<b>\$3,979,917</b>	<b>\$3,729,917</b>	<b>\$3,729,917</b>
<b>TOTAL, ALL GENERAL REVENUE</b>		<b>\$0</b>	<b>\$635,008</b>	<b>\$3,979,917</b>	<b>\$3,729,917</b>	<b>\$3,729,917</b>



2.B. Summary of Base Request by Method of Finance  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

10/9/2020 9:22:57AM

Agency code:	510	Agency name:	Behavioral Health Executive Council			
METHOD OF FINANCING		Exp 2019	Est 2020	Bud 2021	Req 2022	Req 2023
<u>OTHER FUNDS</u>						
666	Appropriated Receipts					
	REGULAR APPROPRIATIONS					
	Regular Appropriations from MOF Table (2020-21 GAA)	\$0	\$0	\$15,988	\$0	\$0
	Regular Appropriations from Table (2022-2023 GAA)	\$0	\$0	\$0	\$888,000	\$888,000
TOTAL,	Appropriated Receipts	\$0	\$0	\$15,988	\$888,000	\$888,000
TOTAL, ALL	OTHER FUNDS	\$0	\$0	\$15,988	\$888,000	\$888,000
GRAND TOTAL		\$0	\$635,008	\$3,995,905	\$4,617,917	\$4,617,917
FULL-TIME-EQUIVALENT POSITIONS						
	REGULAR APPROPRIATIONS					
	Regular Appropriations from MOF Table (2020-21 GAA)	0.0	0.5	64.0	64.0	64.0
TOTAL, ADJUSTED FTES		0.0	0.5	64.0	64.0	64.0

2.B. Summary of Base Request by Method of Finance  
 87th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

10/9/2020 9:22:57AM

Agency code:	510	Agency name:	Behavioral Health Executive Council			
METHOD OF FINANCING		Exp 2019	Est 2020	Bud 2021	Req 2022	Req 2023

NUMBER OF 100% FEDERALLY FUNDED  
 FTEs

2.C. Summary of Base Request by Object of Expense  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

10/9/2020 9:23:17AM

510 Behavioral Health Executive Council

OBJECT OF EXPENSE	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
1001 SALARIES AND WAGES	\$0	\$80,958	\$2,964,000	\$2,970,252	\$2,970,252
1002 OTHER PERSONNEL COSTS	\$0	\$0	\$33,400	\$37,400	\$37,400
2001 PROFESSIONAL FEES AND SERVICES	\$0	\$0	\$5,500	\$5,000	\$5,000
2003 CONSUMABLE SUPPLIES	\$0	\$0	\$26,481	\$26,000	\$26,000
2004 UTILITIES	\$0	\$0	\$4,010	\$4,000	\$4,000
2005 TRAVEL	\$0	\$30,000	\$90,000	\$110,000	\$110,000
2007 RENT - MACHINE AND OTHER	\$0	\$0	\$10,560	\$10,560	\$10,560
2009 OTHER OPERATING EXPENSE	\$0	\$524,050	\$861,954	\$1,454,705	\$1,454,705
<b>OOE Total (Excluding Riders)</b>	<b>\$0</b>	<b>\$635,008</b>	<b>\$3,995,905</b>	<b>\$4,617,917</b>	<b>\$4,617,917</b>
<b>OOE Total (Riders)</b>					
<b>Grand Total</b>	<b>\$0</b>	<b>\$635,008</b>	<b>\$3,995,905</b>	<b>\$4,617,917</b>	<b>\$4,617,917</b>

**2.D. Summary of Base Request Objective Outcomes**  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation system of Texas (ABEST)

10/9/2020 10:50:08AM

**510 Behavioral Health Executive Council**

Goal/ Objective / Outcome		Exp 2019	Est 2020	Bud 2021	Bl. 2022	Bl. 2023
1	Protect Public through Quality Program of Licensure <i>1 Ensure Practitioners Meet Standards for Licensure</i>					
<b>KEY</b>	<b>1 Percent of Licensees with No Recent Violations</b>					
		99.35%	99.26%	95.00%	95.00%	95.00%
2	Protect the Public through Enforcement of Laws and Rules <i>1 Ensure All Practitioners Comply with Established Laws and Rules</i>					
	<b>1 Percent of Complaints Resulting in Disciplinary Action</b>					
		21.00%	16.00%	15.00%	20.00%	20.00%
	<b>2 Recidivism Rate for Those Receiving Disciplinary Action</b>					
		15.52%	13.85%	15.00%	15.00%	15.00%
<b>KEY</b>	<b>3 Percent of Documented Complaints Resolved Within Six Months</b>					
		40.00%	33.00%	20.00%	15.00%	15.00%

Agency code: 510

Agency name: Behavioral Health Executive Council

		2022			2023			Biennium	
Priority	Item	GR and GR/GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds	FTEs	GR and GR Dedicated	All Funds
1	Licensing Staff	\$148,160	\$148,160	4.0	\$140,160	\$140,160	4.0	\$288,320	\$288,320
2	Capitol Complex Move	\$90,000	\$90,000		\$0	\$0		\$90,000	\$90,000
3	Fee Reduction Initiative								
Total, Exceptional Items Request		\$238,160	\$238,160	4.0	\$140,160	\$140,160	4.0	\$378,320	\$378,320
Method of Financing									
	General Revenue	\$238,160	\$238,160		\$140,160	\$140,160		\$378,320	\$378,320
	General Revenue - Dedicated								
	Federal Funds								
	Other Funds								
		\$238,160	\$238,160		\$140,160	\$140,160		\$378,320	\$378,320
Full Time Equivalent Positions				4.0				4.0	
Number of 100% Federally Funded FTEs									

**2.F. Summary of Total Request by Strategy**  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

DATE : 10/9/2020  
TIME : 9:24:09AM

Agency code: 510	Agency name: Behavioral Health Executive Council					
Goal/Objective/STRATEGY	Base 2022	Base 2023	Exceptional 2022	Exceptional 2023	Total Request 2022	Total Request 2023
1 Protect Public through Quality Program of Licensure						
1 <i>Ensure Practitioners Meet Standards for Licensure</i>						
1 LICENSING	\$2,541,184	\$2,541,184	\$193,160	\$140,160	\$2,734,344	\$2,681,344
2 TEXAS.GOV	136,000	136,000	0	0	136,000	136,000
<b>TOTAL, GOAL 1</b>	<b>\$2,677,184</b>	<b>\$2,677,184</b>	<b>\$193,160</b>	<b>\$140,160</b>	<b>\$2,870,344</b>	<b>\$2,817,344</b>
2 Protect the Public through Enforcement of Laws and Rules						
1 <i>Ensure All Practitioners Comply with Established Laws and Rules</i>						
1 ENFORCEMENT	1,907,333	1,907,333	45,000	0	1,952,333	1,907,333
<b>TOTAL, GOAL 2</b>	<b>\$1,907,333</b>	<b>\$1,907,333</b>	<b>\$45,000</b>	<b>\$0</b>	<b>\$1,952,333</b>	<b>\$1,907,333</b>
3 Indirect Administration						
1 <i>Indirect Administration</i>						
1 INDIRECT ADMINISTRATION	33,400	33,400	0	0	33,400	33,400
<b>TOTAL, GOAL 3</b>	<b>\$33,400</b>	<b>\$33,400</b>	<b>\$0</b>	<b>\$0</b>	<b>\$33,400</b>	<b>\$33,400</b>
<b>TOTAL, AGENCY STRATEGY REQUEST</b>	<b>\$4,617,917</b>	<b>\$4,617,917</b>	<b>\$238,160</b>	<b>\$140,160</b>	<b>\$4,856,077</b>	<b>\$4,758,077</b>
<b>TOTAL, AGENCY RIDER APPROPRIATIONS REQUEST</b>						
<b>GRAND TOTAL, AGENCY REQUEST</b>	<b>\$4,617,917</b>	<b>\$4,617,917</b>	<b>\$238,160</b>	<b>\$140,160</b>	<b>\$4,856,077</b>	<b>\$4,758,077</b>

**2.F. Summary of Total Request by Strategy**  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

DATE : 10/9/2020  
TIME : 9:24:09AM

Agency code: 510		Agency name: Behavioral Health Executive Council					
Goal/Objective/STRATEGY		Base 2022	Base 2023	Exceptional 2022	Exceptional 2023	Total Request 2022	Total Request 2023
General Revenue Funds:							
1	General Revenue Fund	\$3,729,917	\$3,729,917	\$238,160	\$140,160	\$3,968,077	\$3,870,077
		\$3,729,917	\$3,729,917	\$238,160	\$140,160	\$3,968,077	\$3,870,077
Other Funds:							
666	Appropriated Receipts	888,000	888,000	0	0	888,000	888,000
		\$888,000	\$888,000	\$0	\$0	\$888,000	\$888,000
TOTAL METHOD OF FINANCING		\$4,617,917	\$4,617,917	\$238,160	\$140,160	\$4,856,077	\$4,758,077
FULL TIME EQUIVALENT POSITIONS		64.0	64.0	4.0	4.0	68.0	68.0

**2.G. Summary of Total Request Objective Outcomes**  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation system of Texas (ABEST)

Date : 10/9/2020  
Time: 10:50:42AM

Agency code: 510

Agency name: Behavioral Health Executive Council

Goal/ Objective / Outcome

		BL 2022	BL 2023	Excp 2022	Excp 2023	Total Request 2022	Total Request 2023
1	Protect Public through Quality Program of Licensure						
1	Ensure Practitioners Meet Standards for Licensure						
KEY	1 Percent of Licensees with No Recent Violations						
		95.00%	95.00%			95.00%	95.00%
2	Protect the Public through Enforcement of Laws and Rules						
1	Ensure All Practitioners Comply with Established Laws and Rules						
	1 Percent of Complaints Resulting in Disciplinary Action						
		20.00%	20.00%			20.00%	20.00%
	2 Recidivism Rate for Those Receiving Disciplinary Action						
		15.00%	15.00%			15.00%	15.00%
KEY	3 Percent of Documented Complaints Resolved Within Six Months						
		15.00%	15.00%			15.00%	15.00%



510 Behavioral Health Executive Council

GOAL: 1 Protect Public through Quality Program of Licensure  
OBJECTIVE: 1 Ensure Practitioners Meet Standards for Licensure  
STRATEGY: 1 Operate Quality Program of Licensure

Service Categories:

Service: 23 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
<b>Output Measures:</b>						
KEY 1	Number of New Certificates/Licensees Issued to Individuals	7,291.00	6,491.00	7,000.00	7,500.00	7,500.00
KEY 2	Number of Certificates/Licenses Renewed (Individuals)	33,632.00	40,064.00	40,000.00	42,000.00	44,000.00
<b>Efficiency Measures:</b>						
KEY 1	Average Time to Process Applications (Days)	74.00	83.00	85.00	70.00	60.00
<b>Explanatory/Input Measures:</b>						
1	Total Number of Individuals Licensed	68,000.00	69,197.00	72,000.00	74,000.00	76,000.00
<b>Objects of Expense:</b>						
1001	SALARIES AND WAGES	\$0	\$40,479	\$1,376,000	\$1,382,132	\$1,382,132
1002	OTHER PERSONNEL COSTS	\$0	\$0	\$16,700	\$22,420	\$22,420
2001	PROFESSIONAL FEES AND SERVICES	\$0	\$0	\$0	\$0	\$0
2003	CONSUMABLE SUPPLIES	\$0	\$0	\$13,241	\$13,000	\$13,000
2004	UTILITIES	\$0	\$0	\$0	\$0	\$0
2005	TRAVEL	\$0	\$15,000	\$45,000	\$55,000	\$55,000
2007	RENT - MACHINE AND OTHER	\$0	\$0	\$5,280	\$5,280	\$5,280
2009	OTHER OPERATING EXPENSE	\$0	\$262,025	\$343,555	\$1,063,352	\$1,063,352

510 Behavioral Health Executive Council

GOAL: 1 Protect Public through Quality Program of Licensure  
OBJECTIVE: 1 Ensure Practitioners Meet Standards for Licensure  
STRATEGY: 1 Operate Quality Program of Licensure

Service Categories:

Service: 23 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	Bl. 2022	Bl. 2023
TOTAL, OBJECT OF EXPENSE		\$0	\$317,504	\$1,799,776	\$2,541,184	\$2,541,184
Method of Financing:						
1	General Revenue Fund	\$0	\$317,504	\$1,783,788	\$1,653,184	\$1,653,184
SUBTOTAL, MOF (GENERAL REVENUE FUNDS)		\$0	\$317,504	\$1,783,788	\$1,653,184	\$1,653,184
Method of Financing:						
666	Appropriated Receipts	\$0	\$0	\$15,988	\$888,000	\$888,000
SUBTOTAL, MOF (OTHER FUNDS)		\$0	\$0	\$15,988	\$888,000	\$888,000
TOTAL, METHOD OF FINANCE (INCLUDING RIDERS)					\$2,541,184	\$2,541,184
TOTAL, METHOD OF FINANCE (EXCLUDING RIDERS)		\$0	\$317,504	\$1,799,776	\$2,541,184	\$2,541,184
FULL TIME EQUIVALENT POSITIONS:		0.0	0.3	30.0	30.0	30.0
STRATEGY DESCRIPTION AND JUSTIFICATION:						

510 Behavioral Health Executive Council

GOAL: 1 Protect Public through Quality Program of Licensure  
OBJECTIVE: 1 Ensure Practitioners Meet Standards for Licensure Service Categories:  
STRATEGY: 1 Operate Quality Program of Licensure Service: 23 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
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The Council is mandated by Chapter 507 of the Occupations Code to regulate the practice of marriage and family therapy, counseling, psychology, and social work. Its mission 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. Other functions of the Council include: biennial renewal of licensure; approval of applicants to take the required national exams; issuance of licenses to qualified applicants; and providing public information.

Statewide goal: to ensure Texans are effectively and efficiently served by high quality professionals. Benchmarks: New and Renewed Licenses Issued via Internet and New Licenses as Compared to Existing Population.

**EXTERNAL/INTERNAL FACTORS IMPACTING STRATEGY:**

External/Internal Factors Impacting Strategy:

- 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.
- Nationwide, only 39 percent of persons with mental illness and 10.8 percent of persons with substance abuse issues receive the mental health treatment they need while 66.8 percent of primary care physicians were unable to refer their patients to high quality mental health specialists.
- 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.
- The number of licenses under regulation by this agency has increased by 13.15% since 2016 (46.64% since 2009) and employment of behavioral health providers is expected to be much faster than the average for all occupations through 2028.
- Despite increases in licensee numbers, Texas still has fewer behavioral health providers than the national average.

510 Behavioral Health Executive Council

GOAL: 1 Protect Public through Quality Program of Licensure  
OBJECTIVE: 1 Ensure Practitioners Meet Standards for Licensure  
STRATEGY: 1 Operate Quality Program of Licensure

Service Categories:

Service: 23 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
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EXPLANATION OF BIENNIAL CHANGE (includes Rider amounts):

STRATEGY BIENNIAL TOTAL - ALL FUNDS		BIENNIAL CHANGE	EXPLANATION OF BIENNIAL CHANGE	
Base Spending (Est 2020 + Bud 2021)	Baseline Request (BL 2022 + BL 2023)		S Amount	Explanation(s) of Amount (must specify MOEs and FTEs)
\$2,117,280	\$5,082,368	\$2,965,088	\$2,093,076	FY 2022-2023 baseline request was "biennialized" due to the fact that the FY 20 funds only included startup costs, and not a full year of ongoing operations.
			\$872,012	Exam testing recovery costs of \$888,000 are included as appropriated receipts under GAA, Art IX, Section 8.14
			<b>\$2,965,088</b>	<b>Total of Explanation of Biennial Change</b>

510 Behavioral Health Executive Council

GOAL: 1 Protect Public through Quality Program of Licensure  
OBJECTIVE: 1 Ensure Practitioners Meet Standards for Licensure  
STRATEGY: 2 Texas gov. Estimated and Nontransferable

Service Categories:

Service: 23 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	BI, 2022	BI, 2023
<b>Objects of Expense:</b>						
2009	OTHER OPERATING EXPENSE	\$0	\$0	\$135,244	\$136,000	\$136,000
<b>TOTAL, OBJECT OF EXPENSE</b>		<b>\$0</b>	<b>\$0</b>	<b>\$135,244</b>	<b>\$136,000</b>	<b>\$136,000</b>
<b>Method of Financing:</b>						
1	General Revenue Fund	\$0	\$0	\$135,244	\$136,000	\$136,000
<b>SUBTOTAL, MOF (GENERAL REVENUE FUNDS)</b>		<b>\$0</b>	<b>\$0</b>	<b>\$135,244</b>	<b>\$136,000</b>	<b>\$136,000</b>
<b>TOTAL, METHOD OF FINANCE (INCLUDING RIDERS)</b>					<b>\$136,000</b>	<b>\$136,000</b>
<b>TOTAL, METHOD OF FINANCE (EXCLUDING RIDERS)</b>		<b>\$0</b>	<b>\$0</b>	<b>\$135,244</b>	<b>\$136,000</b>	<b>\$136,000</b>
<b>FULL TIME EQUIVALENT POSITIONS:</b>		<b>0.0</b>				

**STRATEGY DESCRIPTION AND JUSTIFICATION:**

The Council is mandated by Section 2054.111 Government Code to collect fees from online applications and renewals through Texas.gov system and pass these collected fees, called subscription fees, on to the vendor for the system.

Statewide goal: to ensure Texans are effectively and efficiently served by high quality professionals. Benchmark: New and Renewed Licenses Issued via the Internet.

510 Behavioral Health Executive Council

GOAL: 1 Protect Public through Quality Program of Licensure  
OBJECTIVE: 1 Ensure Practitioners Meet Standards for Licensure  
STRATEGY: 2 Texas.gov, Estimated and Nontransferable

Service Categories:

Service: 23 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
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EXTERNAL/INTERNAL FACTORS IMPACTING STRATEGY:

External/Internal Factors Impacting Strategy:

- The Council renews more than 34,000 licenses per year, and receives more than 10,000 applications per year.
- The Council currently requires licensees to renew online, and will be requiring applicants to apply online in the near future.
- Online applications have proven to be an efficient and time saving alternative for licensees as well as for Board staff.

EXPLANATION OF BIENNIAL CHANGE (includes Rider amounts):

STRATEGY BIENNIAL TOTAL - ALL FUNDS		BIENNIAL CHANGE	EXPLANATION OF BIENNIAL CHANGE	
Base Spending (Est 2020 + Bud 2021)	Baseline Request (BL 2022 + BL 2023)		\$ Amount	Explanation(s) of Amount (must specify MOEs and FTEs)
\$135,244	\$272,000	\$136,756	\$136,756	FY 2022-2023 baseline request was "biennialized" due to the fact that the FY 20 funds only included startup costs, and not a full year of ongoing operations.
			<u>\$136,756</u>	Total of Explanation of Biennial Change

510 Behavioral Health Executive Council

GOAL: 2 Protect the Public through Enforcement of Laws and Rules

OBJECTIVE: 1 Ensure All Practitioners Comply with Established Laws and Rules

Service Categories:

STRATEGY: 1 Operate A Quality Investigation/Enforcement Program

Service: 23

Income: A.2

Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
<b>Output Measures:</b>						
KEY 1	Complaints Resolved	782.00	742.00	800.00	1,000.00	1,200.00
KEY 2	Number of Complaints Pending	1,522.00	1,373.00	1,200.00	1,000.00	800.00
<b>Efficiency Measures:</b>						
KEY 1	Average Time for Complaint Resolution	846.00	757.00	800.00	750.00	700.00
<b>Explanatory/Input Measures:</b>						
KEY 1	Number of Complaints Received	683.00	593.00	650.00	600.00	600.00
<b>Objects of Expense:</b>						
1001	SALARIES AND WAGES	\$0	\$40,479	\$1,588,000	\$1,588,120	\$1,588,120
1002	OTHER PERSONNEL COSTS	\$0	\$0	\$16,700	\$14,980	\$14,980
2001	PROFESSIONAL FEES AND SERVICES	\$0	\$0	\$5,500	\$5,000	\$5,000
2003	CONSUMABLE SUPPLIES	\$0	\$0	\$13,240	\$13,000	\$13,000
2004	UTILITIES	\$0	\$0	\$4,010	\$4,000	\$4,000
2005	TRAVEL	\$0	\$15,000	\$45,000	\$55,000	\$55,000
2007	RENT - MACHINE AND OTHER	\$0	\$0	\$5,280	\$5,280	\$5,280
2009	OTHER OPERATING EXPENSE	\$0	\$262,025	\$344,555	\$221,953	\$221,953
<b>TOTAL, OBJECT OF EXPENSE</b>		<b>\$0</b>	<b>\$317,504</b>	<b>\$2,022,285</b>	<b>\$1,907,333</b>	<b>\$1,907,333</b>

510 Behavioral Health Executive Council

GOAL: 2 Protect the Public through Enforcement of Laws and Rules

OBJECTIVE: 1 Ensure All Practitioners Comply with Established Laws and Rules

STRATEGY: 1 Operate A Quality Investigation/Enforcement Program

Service Categories:

Service: 23 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
<b>Method of Financing:</b>						
1	General Revenue Fund	\$0	\$317,504	\$2,022,285	\$1,907,333	\$1,907,333
<b>SUBTOTAL, MOF (GENERAL REVENUE FUNDS)</b>		<b>\$0</b>	<b>\$317,504</b>	<b>\$2,022,285</b>	<b>\$1,907,333</b>	<b>\$1,907,333</b>
<b>Method of Financing:</b>						
666	Appropriated Receipts	\$0	\$0	\$0	\$0	\$0
<b>SUBTOTAL, MOF (OTHER FUNDS)</b>		<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>TOTAL, METHOD OF FINANCE (INCLUDING RIDERS)</b>					<b>\$1,907,333</b>	<b>\$1,907,333</b>
<b>TOTAL, METHOD OF FINANCE (EXCLUDING RIDERS)</b>		<b>\$0</b>	<b>\$317,504</b>	<b>\$2,022,285</b>	<b>\$1,907,333</b>	<b>\$1,907,333</b>
<b>FULL TIME EQUIVALENT POSITIONS:</b>		<b>0.0</b>	<b>0.2</b>	<b>34.0</b>	<b>34.0</b>	<b>34.0</b>
<b>STRATEGY DESCRIPTION AND JUSTIFICATION:</b>						



**510 Behavioral Health Executive Council**

GOAL: 2 Protect the Public through Enforcement of Laws and Rules  
OBJECTIVE: 1 Ensure All Practitioners Comply with Established Laws and Rules Service Categories:  
STRATEGY: 1 Operate A Quality Investigation/Enforcement Program Service: 23 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
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The Council is mandated by Chapter 507 of the Occupations Code to regulate the practice of marriage and family therapy, counseling, psychology, and social work. Its mission is to protect the public by investigating and enforcing compliance with Chapters 501, 502, 503, 505, and 507 of the Occupations Code and the council and board rules.

Statewide Goal: to ensure Texans are effectively and efficiently served by high quality professionals. Benchmarks: Percentage of Licensees without Documented Complaints and Percentage of Documented Complaints Resolved within Six Months.

**EXTERNAL/INTERNAL FACTORS IMPACTING STRATEGY:**

External/Internal Factors Impacting Strategy:

- On September 1st, the Council assumed regulatory responsibility for all complaints pending before the marriage and family therapy, counseling, and social work programs transferred from HHSC; these complaints numbered approximately 1,350 with the oldest dating back to 2008.
- The Council's Enforcement Division is not yet fully staffed with 9 vacant positions.

510 Behavioral Health Executive Council

GOAL: 2 Protect the Public through Enforcement of Laws and Rules  
OBJECTIVE: 1 Ensure All Practitioners Comply with Established Laws and Rules Service Categories:  
STRATEGY: 1 Operate A Quality Investigation/Enforcement Program Service: 23 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
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EXPLANATION OF BIENNIAL CHANGE (includes Rider amounts):

STRATEGY BIENNIAL TOTAL - ALL FUNDS		BIENNIAL CHANGE	EXPLANATION OF BIENNIAL CHANGE	
Base Spending (Est 2020 - Bud 2021)	Baseline Request (BL 2022 - BL 2023)		\$ Amount	Explanation(s) of Amount (must specify MOEs and FTEs)
\$2,339,789	\$3,814,666	\$1,474,877	\$1,474,877	FY 2022-2023 baseline request was "biennialized" due to the fact that the FY 20 funds only included startup costs, and not a full year of ongoing operations.
			\$1,474,877	Total of Explanation of Biennial Change

510 Behavioral Health Executive Council

GOAL: 3 Indirect Administration  
OBJECTIVE: 1 Indirect Administration  
STRATEGY: 1 Indirect Administration

Service Categories:

Service: 23 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
<b>Objects of Expense:</b>						
2009	OTHER OPERATING EXPENSE	\$0	\$0	\$38,600	\$33,400	\$33,400
<b>TOTAL, OBJECT OF EXPENSE</b>		<b>\$0</b>	<b>\$0</b>	<b>\$38,600</b>	<b>\$33,400</b>	<b>\$33,400</b>
<b>Method of Financing:</b>						
1	General Revenue Fund	\$0	\$0	\$38,600	\$33,400	\$33,400
<b>SUBTOTAL, MOF (GENERAL REVENUE FUNDS)</b>		<b>\$0</b>	<b>\$0</b>	<b>\$38,600</b>	<b>\$33,400</b>	<b>\$33,400</b>
<b>TOTAL, METHOD OF FINANCE (INCLUDING RIDERS)</b>					<b>\$33,400</b>	<b>\$33,400</b>
<b>TOTAL, METHOD OF FINANCE (EXCLUDING RIDERS)</b>		<b>\$0</b>	<b>\$0</b>	<b>\$38,600</b>	<b>\$33,400</b>	<b>\$33,400</b>
<b>FULL TIME EQUIVALENT POSITIONS:</b>		<b>0.0</b>				

**STRATEGY DESCRIPTION AND JUSTIFICATION:**

Indirect Administration costs include costs that are not directly related to the operations of either the licensing or the enforcement strategy, such as required payments to the State Office of Risk Management, membership dues in national licensing associations for all four professions, registration fees for professional staff members to maintain their license (attorney, CPA), presort mailing services and other miscellaneous operating expenses.

510 Behavioral Health Executive Council

GOAL: 3 Indirect Administration  
OBJECTIVE: 1 Indirect Administration  
STRATEGY: 1 Indirect Administration

Service Categories:

Service: 23 Income: A.2 Age: B.3

CODE	DESCRIPTION	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
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EXTERNAL/INTERNAL FACTORS IMPACTING STRATEGY:

Internal/External Factors:

Even though the costs included in this strategy are not directly associated with the licensing or the enforcement strategies, these costs are needed in order to support the two main strategies/goals of the agency.

EXPLANATION OF BIENNIAL CHANGE (includes Rider amounts):

STRATEGY BIENNIAL TOTAL - ALL FUNDS		BIENNIAL CHANGE	EXPLANATION OF BIENNIAL CHANGE	
Base Spending (Est 2020 + Bud 2021)	Baseline Request (BL 2022 + BL 2023)		\$ Amount	Explanation(s) of Amount (must specify MOEs and FTEs)
\$38,600	\$66,800	\$28,200	\$28,200	FY 2022-2023 baseline request was "biennialized" due to the fact that the FY 20 funds only included startup costs, and not a full year of ongoing operations
			\$28,200	Total of Explanation of Biennial Change

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**SUMMARY TOTALS:**

<b>OBJECTS OF EXPENSE:</b>	<b>\$0</b>	<b>\$635,008</b>	<b>\$3,995,905</b>	<b>\$4,617,917</b>	<b>\$4,617,917</b>
<b>METHODS OF FINANCE (INCLUDING RIDERS):</b>				<b>\$4,617,917</b>	<b>\$4,617,917</b>
<b>METHODS OF FINANCE (EXCLUDING RIDERS):</b>	<b>\$0</b>	<b>\$635,008</b>	<b>\$3,995,905</b>	<b>\$4,617,917</b>	<b>\$4,617,917</b>
<b>FULL TIME EQUIVALENT POSITIONS:</b>	<b>0.0</b>	<b>0.5</b>	<b>64.0</b>	<b>64.0</b>	<b>64.0</b>

**3.A.1. PROGRAM-LEVEL REQUEST SCHEDULE**  
87th Regular Session, Agency Submission, Version 1

[illegible]

**Program Prioritization:** Indicate the methodology or approach taken by the agency court or institution to determine the ranking of each program by priority

The Licensing program including Texas gov strategy is the priority of the agency as it is the program that licenses prospective applicants and maintains current licensees. This program is responsible for collecting over 6 million per year in general revenue for the state.

### 3.B. Rider Revisions and Additions Request

<b>Agency Code:</b> 510	<b>Agency Name:</b> Texas Behavioral Health Executive Council	<b>Prepared By:</b> Jennifer Noack	<b>Date:</b> 10/9/2020	<b>Request Level:</b> 1
<b>Current Rider Number</b>	<b>Page Number in 2020-21 GAA</b>	<b>Proposed Rider Language</b>		

2

VIII-5

Included in amounts appropriated to the ~~Board of Examiners of Psychologists~~ Texas Behavioral Health Executive Council, is ~~\$45,145~~ \$89,731 in General Revenue that may only be used during the ~~2020-2024~~ 2022-2023 fiscal biennium to pay for retirement payouts due at the time of agency employees' retirement. The unexpended funds of no more than ~~\$45,145~~ \$89,731 in General Revenue remaining on August 31, ~~2020~~ 2022, may be expended by the ~~Behavioral Health Executive Council~~ during the fiscal year beginning September 1, ~~2020-2022~~, only to pay for retirement payouts due at the time of agency employees' retirement. Any part of the appropriation made for retirement payouts due at the time of agency employees' retirement that are not necessary for that purpose shall be lapsed by the agency at the end of the biennium.

Agency code: 510

Agency name:

Behavioral Health Executive Council

CODE	DESCRIPTION	Excp 2022	Excp 2023
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Item Name: Additional Staff for Licensing Programs

Item Priority: 1

IT Component: Yes

Anticipated Out-year Costs: No

Involve Contracts > \$50,000: No

Includes Funding for the Following Strategy or Strategies: 01-01-01 Operate Quality Program of Licensure

**OBJECTS OF EXPENSE:**

1001	SALARIES AND WAGES	138,000	138,000
2009	OTHER OPERATING EXPENSE	10,160	2,160

TOTAL, OBJECT OF EXPENSE

**METHOD OF FINANCING:**

1	General Revenue Fund	148,160	140,160
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TOTAL, METHOD OF FINANCING

**FULL-TIME EQUIVALENT POSITIONS (FTE):**

4.00	4.00
------	------

**DESCRIPTION / JUSTIFICATION:**

Current staffing levels have proven inadequate for allowing the agency to process incoming applications, address the licensing backlog, and respond to the volume of emails and phone calls received in connection with these programs.

**EXTERNAL/INTERNAL FACTORS:**

Internal/External Factors:

- The programs under the Council received 11,917 applications in FY2020, with 3,799 applications in the LPC program and 5,829 applications in the social work program
- The LPC and social work programs receive hundreds of emails, phone calls, and pieces of mail each week which must be processed separate and apart from the actual review of the applications.
- The Council currently has 5 FTEs assigned to the Social Work Program and 3 FTEs assigned to the LPC program. The Council reassigned one of its IT positions to the LPC program and will reassign one additional FTE position from the LMFT program, bringing the total FTEs assigned to the LPC program to four. Despite these reassignments, the LPC and social work programs remain understaffed.
- The number of licensed professional counselors and social workers in the state has grown by 20% and 9%, respectively, since 2016, and by 71% and 28%, respectively, since 2009; this continued growth of licensed behavioral health providers is expected to continue through 2028.

**PCLS TRACKING KEY:**

N/A

**DESCRIPTION OF IT COMPONENT INCLUDED IN EXCEPTIONAL ITEM:**

Purchase of laptops and peripherals for four new staff.



Agency code: 510

Agency name:  
Behavioral Health Executive Council

CODE	DESCRIPTION	Excp 2022	Excp 2023
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**IS THIS IT COMPONENT RELATED TO A NEW OR CURRENT PROJECT?**

NEW

**STATUS:**

\$2,000 per new staff member is allocated for the purchase of laptops and peripherals.

**OUTCOMES:**

This equipment is needed in order for staff to perform their duties.

**OUTPUTS:**

This equipment is needed in order for staff to perform their duties.

**TYPE OF PROJECT**

Acquisition and Refresh of Hardware and Software

**ALTERNATIVE ANALYSIS**

There is no alternative if the IT portion of this exceptional item is not funded. Staff would not be able to perform their duties.

**ESTIMATED IT COST**

2020	2021	2022	2023	2024	2025	2026	Total Over Life of Project
\$0	\$0	\$8,000	\$0	\$0	\$0	\$0	\$8,000

**SCALABILITY**

2020	2021	2022	2023	2024	2025	2026	Total Over Life of Project
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

**FTE**

2020	2021	2022	2023	2024	2025	2026
0.0	0.0	4.0	0.0	0.0	0.0	0.0

**4.A. Exceptional Item Request Schedule**  
 87th Regular Session, Agency Submission, Version 1  
 Automated Budget and Evaluation System of Texas (ABEST)

DATE: 10/9/2020  
 TIME: 9:25:17AM

Agency code: 510

Agency name:

**Behavioral Health Executive Council**

CODE	DESCRIPTION	Excp 2022	Excp 2023
	Item Name: New workstations for Capitol Complex move		
	Item Priority: 2		
	IT Component: No		
	Anticipated Out-year Costs: No		
	Involve Contracts > \$50,000: No		
	Includes Funding for the Following Strategy or Strategies: 01-01-01 Operate Quality Program of Licensure		
	02-01-01 Operate A Quality Investigation/Enforcement Program		

**OBJECTS OF EXPENSE:**

2009 OTHER OPERATING EXPENSE

90,000 0

**TOTAL, OBJECT OF EXPENSE**

**\$90,000 \$0**

**METHOD OF FINANCING:**

1 General Revenue Fund

90,000 0

**TOTAL, METHOD OF FINANCING**

**\$90,000 \$0**

**DESCRIPTION / JUSTIFICATION:**

The Texas Behavioral Health Executive Council is scheduled to move into the George H.W. Bush State Office Building in May 2022. The Texas Facilities Commission will cover the costs of the move, basic finish-out of the new space and common space furnishing and has requested that the agency limit the move of current furnishings located in the Hobby Building. The agency will be required to cover the costs of interior office furniture, telecom infrastructure and other build out items not covered by the Texas Facilities Commission.

**EXTERNAL/INTERNAL FACTORS:**

Internal/External Factors:

At this time, specific quotes and bids are not available for items requested. The agency is estimating complete modular suites (including file cabinets, bookcases and chairs) for the 20 interior offices at \$80,000 (4,000 each), conference room table and chairs at \$5,000 and IT cabling and equipment costs of \$10,000. The agency will update this exceptional item as necessary as more concrete costs can be obtained.

**PCLS TRACKING KEY:**

4.A. Exceptional Item Request Schedule  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 10/9/2020  
TIME: 9:25:17AM

Agency code: 510

Agency name:

Behavioral Health Executive Council

CODE	DESCRIPTION	Excp 2022	Excp 2023
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Agency code: 510 Agency name: Behavioral Health Executive Council

Code	Description	Exp 2022	Exp 2023
<b>Item Name:</b> Additional Staff for Licensing Programs			
<b>Allocation to Strategy:</b> 1-1-1 Operate Quality Program of Licensure			
<b>OBJECTS OF EXPENSE:</b>			
1001	SALARIES AND WAGES	138,000	138,000
2009	OTHER OPERATING EXPENSE	10,160	2,160
<b>TOTAL, OBJECT OF EXPENSE</b>		<b>\$148,160</b>	<b>\$140,160</b>
<b>METHOD OF FINANCING:</b>			
1	General Revenue Fund	148,160	140,160
<b>TOTAL, METHOD OF FINANCING</b>		<b>\$148,160</b>	<b>\$140,160</b>
<b>FULL-TIME EQUIVALENT POSITIONS (FTE):</b>		<b>4.0</b>	<b>4.0</b>

Agency code: 510		Agency name: Behavioral Health Executive Council	
Code	Description	Excp 2022	Excp 2023
Item Name: New workstations for Capitol Complex move			
Allocation to Strategy: 1-1-1 Operate Quality Program of Licensure			
OBJECTS OF EXPENSE:			
2009	OTHER OPERATING EXPENSE	45,000	0
TOTAL, OBJECT OF EXPENSE		\$45,000	\$0
METHOD OF FINANCING:			
1	General Revenue Fund	45,000	0
TOTAL, METHOD OF FINANCING		\$45,000	\$0

4.B. Exceptional Items Strategy Allocation Schedule  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 10/9/2020  
TIME: 9:25:36AM

Agency code: 510 Agency name: Behavioral Health Executive Council

Code	Description	Excp 2022	Excp 2023
<b>Item Name:</b>			
New workstations for Capitol Complex move			
<b>Allocation to Strategy:</b>			
2-1-1 Operate A Quality Investigation/Enforcement Program			
<b>OBJECTS OF EXPENSE:</b>			
2009	OTHER OPERATING EXPENSE	45,000	0
<b>TOTAL, OBJECT OF EXPENSE</b>		<b>\$45,000</b>	<b>\$0</b>
<b>METHOD OF FINANCING:</b>			
1 General Revenue Fund		45,000	0
<b>TOTAL, METHOD OF FINANCING</b>		<b>\$45,000</b>	<b>\$0</b>

Agency Code: 510 Agency name: Behavioral Health Executive Council

GOAL: 1 Protect Public through Quality Program of Licensure

OBJECTIVE: 1 Ensure Practitioners Meet Standards for Licensure

STRATEGY: 1 Operate Quality Program of Licensure

Service Categories:

Service: 23 Income: A,2 Age: B,3

CODE	DESCRIPTION	Exp 2022	Exp 2023
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OBJECTS OF EXPENSE:

1001 SALARIES AND WAGES

138,000 138,000

2009 OTHER OPERATING EXPENSE

55,160 2,160

Total, Objects of Expense

\$193,160 \$140,160

METHOD OF FINANCING:

1 General Revenue Fund

193,160 140,160

Total, Method of Finance

\$193,160 \$140,160

FULL-TIME EQUIVALENT POSITIONS (FTE):

4.0 4.0

EXCEPTIONAL ITEM(S) INCLUDED IN STRATEGY:

Additional Staff for Licensing Programs

New workstations for Capitol Complex move

Agency Code: 510 Agency name: Behavioral Health Executive Council

GOAL: 2 Protect the Public through Enforcement of Laws and Rules

OBJECTIVE: 1 Ensure All Practitioners Comply with Established Laws and Rules

Service Categories:

STRATEGY: 1 Operate A Quality Investigation/Enforcement Program

Service: 23 Income: A.2 Age: B.3

CODE DESCRIPTION	Excp 2022	Excp 2023
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OBJECTS OF EXPENSE:

2009 OTHER OPERATING EXPENSE	45,000	0
<b>Total, Objects of Expense</b>	<b>\$45,000</b>	<b>\$0</b>

METHOD OF FINANCING:

1 General Revenue Fund	45,000	0
<b>Total, Method of Finance</b>	<b>\$45,000</b>	<b>\$0</b>

EXCEPTIONAL ITEM(S) INCLUDED IN STRATEGY:

New workstations for Capitol Complex move



5.A. Capital Budget Project Schedule  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

DATE: 10/9/2020  
TIME: 9:28:05AM

Agency code: 510

Agency name: Behavioral Health Executive Council

Category Code / Category Name

Project Sequence / Project ID / Name

OOE / TOF / MOF CODE

Est 2020

Bud 2021

BL 2022

BL 2023

7000 Data Center Consolidation

1/1 Datacenter Consolidation Services

OBJECTS OF EXPENSE

Informational

General 2009 OTHER OPERATING EXPENSE

\$0

\$0

\$59,232

\$59,232

Informational Subtotal OOE, Project

1

\$0

\$0

\$59,232

\$59,232

Subtotal OOE, Project

1

\$0

\$0

\$59,232

\$59,232

TYPE OF FINANCING

Informational

General CA 1 General Revenue Fund

\$0

\$0

\$59,232

\$59,232

Informational Subtotal TOF, Project

1

\$0

\$0

\$59,232

\$59,232

Subtotal TOF, Project

1

\$0

\$0

\$59,232

\$59,232

Capital Subtotal, Category 7000

Informational Subtotal, Category 7000

\$0

\$0

\$59,232

\$59,232

Total, Category 7000

\$0

\$0

\$59,232

\$59,232

AGENCY TOTAL - CAPITAL

\$0

\$0

\$59,232

\$59,232

AGENCY TOTAL - INFORMATIONAL

\$0

\$0

\$59,232

\$59,232

AGENCY TOTAL

Agency code		510	Agency name Behavioral Health Executive Council			
Category Code / Category Name						
Project Sequence/Project ID Name						
OOE / TOF / MOF CODE			Est 2020	Bud 2021	Bl. 2022	Bl. 2023
METHOD OF FINANCING:						
Informational						
General	1	General Revenue Fund	\$0	\$0	\$59,232	\$59,232
Total, Method of Financing-Informational			\$0	\$0	\$59,232	\$59,232
Total, Method of Financing			\$0	\$0	\$59,232	\$59,232
TYPE OF FINANCING:						
Informational						
General	CA	CURRENT APPROPRIATIONS	\$0	\$0	\$59,232	\$59,232
Total, Type of Financing-Informational			\$0	\$0	\$59,232	\$59,232
Total,Type of Financing			\$0	\$0	\$59,232	\$59,232

Agency code: 510 Agency name: Behavioral Health Executive Council

Category Code/Name

Project Sequence/Project Id/Name

Goal/Obj/Str	Strategy Name	Est 2020	Bud 2021	Bl. 2022	Bl. 2023	
7000 Data Center Consolidation						
1/1	Datacenter Consolidation Services					
<u>GENERAL BUDGET</u>						
Informational	1-1-1	LICENSING	0	0	\$29,616	\$29,616
	2-1-1	ENFORCEMENT	0	0	29,616	29,616
	TOTAL, PROJECT		\$0	\$0	\$59,232	\$59,232
	TOTAL CAPITAL, ALL PROJECTS					
	TOTAL INFORMATIONAL, ALL PROJECTS		\$0	\$0	\$59,232	\$59,232
	TOTAL, ALL PROJECTS		\$0	\$0	\$59,232	\$59,232

**5.D. Capital Budget Operating and Maintenance Expenses**  
**87th Regular Session, Agency Submission, Version 1**  
**Automated Budget and Evaluation System of Texas (ABEST)**

DATE: 10/9/2020  
TIME: 9:32:28AM

Agency Code: 510 Agency name: Behavioral Health Executive Council  
Project Number: 1 Project name: Datacenter Consolidation Services  
Operating Expenses Estimates (For Information Only)

CODE DESCRIPTION	2022	2023	2024	2025
<b>OBJECTS OF EXPENSE:</b>				
2009 OTHER OPERATING EXPENSE	\$59,232	\$59,232	\$59,232	\$59,232
<b>TOTAL, OBJECT OF EXPENSE</b>	<b>\$59,232</b>	<b>\$59,232</b>	<b>\$59,232</b>	<b>\$59,232</b>
<b>METHOD OF FINANCING:</b>				
1 General Revenue Fund	\$59,232	\$59,232	\$59,232	\$59,232
<b>TOTAL, METHOD OF FINANCING</b>	<b>\$59,232</b>	<b>\$59,232</b>	<b>\$59,232</b>	<b>\$59,232</b>

**OPERATING COSTS DESCRIPTION AND JUSTIFICATION:**

N/A

510 Behavioral Health Executive Council

Category Code/Name

Project Sequence/Name

Goal/Obj/Str	Strategy Name	Est 2020	Bud 2021	BL 2022	BL 2023
7000 Data Center Consolidation					
1 Datacenter Consolidation Services					
OOE					
Informational					
1-1-1 LICENSING					
General Budget					
2009	OTHER OPERATING EXPENSE	0	0	29,616	29,616
2-1-1 ENFORCEMENT					
General Budget					
2009	OTHER OPERATING EXPENSE	0	0	29,616	29,616
TOTAL, OOE's		\$0	\$0	59,232	59,232
MOF					
GENERAL REVENUE FUNDS					
Informational					
1-1-1 LICENSING					
General Budget					
1	General Revenue Fund	0	0	29,616	29,616
2-1-1 ENFORCEMENT					
General Budget					
1	General Revenue Fund	0	0	29,616	29,616
TOTAL, GENERAL REVENUE FUNDS		\$0	\$0	59,232	59,232
TOTAL, MOF's		\$0	\$0	59,232	59,232

**510 Behavioral Health Executive Council**

**INFORMATIONAL**

**General Budget**

**GENERAL REVENUE FUNDS**

	Est 2020	Bud 2021	BL 2022	BL 2023
TOTAL, GENERAL BUDGET	\$0 0	\$0 0	59,232 59,232	59,232 59,232
TOTAL, ALL PROJECTS	\$0	\$0	59,232	59,232

6.A. Historically Underutilized Business Supporting Schedule  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

Date: 10/9/2020  
Time: 9:44:35AM

Agency Code: 510 Agency: Behavioral Health Executive Council

COMPARISON TO STATEWIDE HUB PROCUREMENT GOALS

A. Fiscal Year - HUB Expenditure Information

Statewide HUB Goals	Procurement Category	% Goal	HUB Expenditures FY 2018			Total Expenditures FY 2018	% Goal	HUB Expenditures FY 2019			Total Expenditures FY 2019
			% Actual	Diff	Actual \$			% Actual	Diff	Actual \$	
26.0%	Other Services	1.0 %	1.5%	0.5%	\$296	\$19,234	1.0 %	2.2%	1.2%	\$322	\$14,538
21.1%	Commodities	75.0 %	60.5%	-14.5%	\$18,396	\$30,411	90.0 %	44.7%	-45.3%	\$3,636	\$8,139
	<b>Total Expenditures</b>		<b>37.7%</b>		<b>\$18,692</b>	<b>\$49,645</b>		<b>17.5%</b>		<b>\$3,958</b>	<b>\$22,677</b>

B. Assessment of Fiscal Year - Efforts to Meet HUB Procurement Goals

**Attainment:**

The agency attained it's goal in Other Services for both FY 18 and FY 19.

The agency did not meet it's goal in Commodities for either FY 18 or FY 19.

**Applicability:**

The following categories are not applicable to the agency, or the agency had no expenditures in them:

- 1) Heavy Construction;
- 2) Building Construction;
- 3) Special Trade Construction;
- 4) Professional Services.

**Factors Affecting Attainment:**

The agency contributes the following factors to not attaining it's goals in FY 18 and FY 19:

- 1) The agency believes that it set the attainment goals too high for both FY 18 and FY 19;
- 2) The agency purchased more consumables than the TIBH state store carries during these fiscal years.

**"Good-Faith" Efforts:**

The agency makes good faith efforts to comply with statewide HUB goals in the following ways:

- 1) The agency has a policy in effect that requires it to follow state purchasing rules for obtaining bids from HUB vendors when bids are required.
- 2) The agency monitors expenditures in HUB awarded contracts and non-HUB awarded contracts for quality service.

6.A. Historically Underutilized Business Supporting Schedule  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

Date: 10/9/2020  
Time: 9:44:35AM

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Agency Code: 510      Agency: Behavioral Health Executive Council

3) The agency uses the CMBL and HUB vendor directories during the procurement process.



**6.B. Current Biennium Onetime Expenditure Schedule**  
**Strategy Allocation from 2020-21 Biennium to 2022-23 Biennium**

<b>Agency Code:</b> 510	<b>Agency Name:</b> Texas Behavioral Health Executive Council	<b>Prepared By:</b> Jennifer Noack	<b>Date:</b> 10/9/2020
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<b>2020-21</b> <b>PROJECT:</b> Start up costs for new agency <b>ALLOCATION TO STRATEGY:</b> A.1.1. and B.1.1.	<b>2022-23</b> <b>PROJECT:</b> Ongoing salary expenses for new staff <b>ALLOCATION TO STRATEGY:</b> A.1.1. and B.1.1.
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Strategy Code	OOE/MOF Code	Strategy Allocation	Estimated 2020	Budgeted 2021	Requested 2022	Requested 2023
<b>Object of Expense:</b>						
A.1.1.	2009	Other Operating Costs	\$209,247	\$125,000	\$125,000	\$0
B.1.1.	2009	Other Operating Costs	\$209,247	\$125,000	\$125,000	
A.1.1.	1001	Salaries and Wages			\$104,624	\$104,623
B.1.1.	1001	Salaries and Wages			\$104,624	\$104,623
<b>Total, Object of Expense</b>			<b>\$418,494</b>	<b>\$250,000</b>	<b>\$459,248</b>	<b>\$209,246</b>
<b>Method of Financing:</b>						
			\$0	\$0	\$0	\$0
<b>Total, Method of Financing</b>			<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**Project Description for the 2020-21 Biennium:**

The Texas Behavioral Health Executive Council (BHEC) was established September 1, 2019 by the 86th Legislature. BHEC was appropriated 0.5 FTE and \$885,008 for start up costs during fiscal year 2020. For fiscal year 2021, the agency was appropriated 64 FTEs and \$3,745,905 for a full year of operations.

**Project Description and Allocation Purpose for the 2022-23 Biennium:**

To reach its baseline reconciliation, BHEC was biennialized to cover funding request for the 2022-2023 biennium. The start up costs incurred in fiscal year 2020 were used in to budget for salaries for staff that were authorized beginning in fiscal year 2021.

6.E. Estimated Revenue Collections Supporting Schedule  
87th Regular Session, Agency Submission, Version I  
Automated Budget and Evaluation System of Texas (ABEST)

Agency Code: 510 Agency name: Behavioral Health Executive Council

FUND/ACCOUNT	Act 2019	Exp 2020	Est 2021	Est 2022	Est 2023
<b>1 General Revenue Fund</b>					
Beginning Balance (Unencumbered):	\$0	\$0	\$0	\$0	\$0
Estimated Revenue:					
3175 Professional Fees	1,696,739	2,261,138	1,684,000	1,687,368	1,690,743
3562 Health Related Profession Fees	2,062,031	1,963,536	2,352,000	2,356,704	2,361,417
3616 Social Worker Regulation	1,349,213	1,234,039	1,981,000	1,984,962	1,988,932
3770 Administrative Penalties	1,450	3,200	5,000	5,000	5,000
3775 Returned Check Fees	100	100	100	100	100
Subtotal: Actual/Estimated Revenue	5,109,533	5,462,013	6,022,100	6,034,134	6,046,192
<b>Total Available</b>	<b>\$5,109,533</b>	<b>\$5,462,013</b>	<b>\$6,022,100</b>	<b>\$6,034,134</b>	<b>\$6,046,192</b>
<b>DEDUCTIONS:</b>					
Expended/Estimate/Budgeted	(1,636,702)	(635,008)	(3,979,917)	(3,729,917)	(3,729,917)
Indirect Costs	(900,000)	(900,000)	(900,000)	(900,000)	(900,000)
<b>Total, Deductions</b>	<b>\$ (2,536,702)</b>	<b>\$ (1,535,008)</b>	<b>\$ (4,879,917)</b>	<b>\$ (4,629,917)</b>	<b>\$ (4,629,917)</b>
<b>Ending Fund/Account Balance</b>	<b>\$2,572,831</b>	<b>\$3,927,005</b>	<b>\$1,142,183</b>	<b>\$1,404,217</b>	<b>\$1,416,275</b>

**REVENUE ASSUMPTIONS:**

Revenue assumptions:

(1) 0.2% growth rate in licensing.

(2) Revenue costs for FY 2019 and FY 2020 included actual revenue from TSBEP, and estimated revenue from the HHSC programs.

Deduction assumptions:

(1) Expended costs for FY 2019 and FY 2020 are actual costs from TSBEP, and estimated costs from the HHSC programs.

(2) Indirect costs for FY 2019 and FY 2020 are actual costs from TSBEP, and estimated costs from the HHSC programs.

**CONTACT PERSON:**

Jennifer Noack

**6.E. Estimated Revenue Collections Supporting Schedule**  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

Agency Code: **510** Agency name: **Behavioral Health Executive Council**

FUND/ACCOUNT	Act 2019	Exp 2020	Est 2021	Est 2022	Est 2023
<b>666 Appropriated Receipts</b>					
Beginning Balance (Unencumbered):	\$0	\$0	\$0	\$0	\$0
Estimated Revenue:					
3719 Fees/Copies or Filing of Records	74,295	88,870	20,000	42,500	42,500
3722 Conf. Semin. & Train Regis Fees	814,466	816,200	840,000	840,000	840,000
3752 Sale of Publications/Advertising	4,250	4,600	500	500	500
3802 Reimbursements-Third Party	17,850	13,650	5,000	5,000	5,000
3879 Credit Card and Related Fees	25,534	23,800	0	0	0
Subtotal: Actual/Estimated Revenue	936,395	947,120	865,500	888,000	888,000
<b>Total Available</b>	<b>\$936,395</b>	<b>\$947,120</b>	<b>\$865,500</b>	<b>\$888,000</b>	<b>\$888,000</b>
<b>DEDUCTIONS:</b>					
Expended/Estimate/Budgeted	(936,395)	(947,120)	(865,500)	(888,000)	(888,000)
<b>Total, Deductions</b>	<b>\$ (936,395)</b>	<b>\$ (947,120)</b>	<b>\$ (865,500)</b>	<b>\$ (888,000)</b>	<b>\$ (888,000)</b>
<b>Ending Fund/Account Balance</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**REVENUE ASSUMPTIONS:**

Revenue assumptions:

- (1) The agency began publishing the licensee's expiration date and issue date on the public search feature of the online licensing system. Therefore, credentialing companies are getting licensee information there, instead of paying \$30 per written verification. This will cause the Fees/Copies or Filing of Records revenue to decrease considerably.
- (2) The cost for the agency's mailing list decreased from \$100 to \$10. This will cause a decrease in Sale of Publications/Advertising.
- (3) The agency collects the cost recovery of testing fees allowed under GAA, Art IX, Section 8.14 for over 24,000 applicants and licensees at \$39 each. This fee is collected via Texas.gov and subsequently paid out (pass through) in Other Operating Expenses as a training registration fee.

**CONTACT PERSON:**

Jennifer Noack

**6.E. Estimated Revenue Collections Supporting Schedule**

87th Regular Session, Agency Submission, Version 1

Automated Budget and Evaluation System of Texas (ABEST)

Agency Code: **510** Agency name: **Behavioral Health Executive Council**

<b>FUND/ACCOUNT</b>	<b>Act 2019</b>	<b>Exp 2020</b>	<b>Est 2021</b>	<b>Est 2022</b>	<b>Est 2023</b>
<b><u>777</u> Interagency Contracts</b>					
Beginning Balance (Unencumbered):	\$20,548	\$0	\$0	\$0	\$0
Estimated Revenue:					
<b>DEDUCTIONS:</b>					
Expended	(20,548)	0	0	0	0
<b>Total, Deductions</b>	<b>\$ (20,548)</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Ending Fund/Account Balance</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**REVENUE ASSUMPTIONS:**

The interagency contract between TSBEP and the Texas Funeral Service Commission was terminated on May 31, 2019.

**CONTACT PERSON:**

Jennifer Noack

7.A. Indirect Administrative and Support Costs

10/9/2020 9:45:12AM

87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

510 Behavioral Health Executive Council

Strategy	Exp 2019	Est 2020	Bud 2021	Bl. 2022	Bl. 2023
1-1-1 Operate Quality Program of Licensure					
<b>OBJECTS OF EXPENSE:</b>					
2009 OTHER OPERATING EXPENSE	\$0	\$ 0	\$ 19,686	\$ 17,034	\$ 17,034
Total, Objects of Expense	\$0	\$0	\$19,686	\$17,034	\$17,034
<b>METHOD OF FINANCING:</b>					
General Revenue Fund	0	0	19,686	17,034	17,034
Total, Method of Financing	\$0	\$0	\$19,686	\$17,034	\$17,034
<b>Method of Allocation</b>					

Indirect administration costs directly support the Licensing and Enforcement strategies. These costs are allocated based on percent of budget for each of these two strategies. 51% Licensing and 49% Enforcement.

7.A. Indirect Administrative and Support Costs  
87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

10/9/2020 9:45:12AM

510 Behavioral Health Executive Council

Strategy	Exp 2019	Est 2020	Bud 2021	Bl. 2022	Bl. 2023
2-1-1 Operate A Quality Investigation/Enforcement Program					
<b>OBJECTS OF EXPENSE:</b>					
2009 OTHER OPERATING EXPENSE	\$0	\$ 0	\$ 18,914	\$ 16,366	\$ 16,366
Total, Objects of Expense	\$0	\$0	\$18,914	\$16,366	\$16,366
<b>METHOD OF FINANCING:</b>					
I General Revenue Fund	0	0	18,914	16,366	16,366
Total, Method of Financing	\$0	\$0	\$18,914	\$16,366	\$16,366
<b>Method of Allocation</b>					

Indirect administration costs directly support the Licensing and Enforcement strategies. These costs are allocated based on percent of budget for each of these two strategies, 51% Licensing and 49% Enforcement.

7.A. Indirect Administrative and Support Costs

10/9/2020 9:45:12AM

87th Regular Session, Agency Submission, Version 1  
Automated Budget and Evaluation System of Texas (ABEST)

510 Behavioral Health Executive Council

	Exp 2019	Est 2020	Bud 2021	BL 2022	BL 2023
<b>GRAND TOTALS</b>					
<b>Objects of Expense</b>					
2009 OTHER OPERATING EXPENSE	\$0	\$0	\$38,600	\$33,400	\$33,400
Total, Objects of Expense	\$0	\$0	\$38,600	\$33,400	\$33,400
<b>Method of Financing</b>					
1 General Revenue Fund	\$0	\$0	\$38,600	\$33,400	\$33,400
Total, Method of Financing	\$0	\$0	\$38,600	\$33,400	\$33,400
<b>Full-Time-Equivalent Positions (FTE)</b>					

1 Enforcement Asst position – 5 applicants

6 Invest III positions - 3 applicants

1 Invest V position - 7 applicants

1 Temp Invest III position - 2 applicants

*as of 10/20/20*



Steps the Texas Behavioral Health Executive Council is taking to address the social work licensing backlog:

1. The Council has entered into an agreement with the Association of Social Work Boards (ASWB) whereby ASWB will process all requests for exam eligibility by social work applicants. Individuals wishing to apply for social worker licensure with the Council will be required to apply for exam eligibility with ASWB before applying for licensure with the Council. ASWB will use the Council's rules to determine exam eligibility and the Council will review and approve or deny access to the exam for any questionable applicants. The Council however, will remain responsible for processing the actual application for licensure, which will not be submitted until after the exam has been passed. This should resolve the current backlog being experienced by social worker applicants requesting exam eligibility.
2. The Texas State Board of Social Worker Examiners (TSBSWE) has voted to propose repeal of the requirement that supervision plans be submitted for approval to the agency. The rule changes needed to accomplish this will be considered both by the Council and TSBSWE at a joint meeting on October 12<sup>th</sup>. This rule change should free up significant staff time which can then be allocated to the actual processing of license applications. In the interim, the Executive Director, with the consent of the Chairs for both the Council and TSBSWE, has requested suspension of the requirement that supervision plans be submitted and approved, from the Governor. This request is pending and the public will be notified if the request is granted.
3. Council staff are actively working toward moving all licensing applications for marriage and family therapy, counseling, and social work, into an online format. Once the instructions and database changes needed to implement the online applications have been finalized, the use of online applications will become mandatory. This should reduce the amount of mail and email that staff must handle or review when collecting and assimilating the supporting documentation submitted by applicants.
4. Staff are actively reviewing licensure rules to determine whether any rule changes are needed to reduce undue regulatory burdens on applicants and licensees and streamline agency operations.
5. Staff are temporarily changing up the licensing procedures used for LCSW applicants so that applicants with timely supervised experience (i.e., experience within the 5 years preceding the date of application) are made exam eligible while their application is pending final review. Applicants will remain subject to all license qualifications, including supervised experience requirements, but the determination of whether an applicant meets these qualifications will take place after the applicant has passed the national exam, rather than before.
6. The Executive Director, with the consent of the Chairs for both the Council and TSBSWE, has requested suspension of portions of Section 505.357 of the Occupations Code and 22 TAC 781.411 by the Governor, in manner that will allow the Council to

issue a temporary license to individuals who submit a valid application and transcript reflecting a qualifying degree. This temporary license will be valid until the applicant passes the national examination or the application expires, whichever occurs first. This request is pending and the public will be notified if the request is granted.

7. The Executive Director has authorized the use of over-time pay for staff willing to work additional hours to resolve the licensing backlog.
8. At the request of Chair Canseco and Chair Brown, the Executive Director has begun soliciting volunteers from the licensee ranks and state association, to assist staff with organizing, scanning, reviewing, and processing licensing applications to resolve the licensing backlog.

## Request to Cancel Disaster Related Waivers

Darrel Spinks <[REDACTED]>

Wed 9/2/2020 1:58 PM

To: Scot Kibbe <[REDACTED]>

 2 attachments (106 KB)

TSBEP Hurricane Harvey waiver.pdf; TSBEP COVID-19 temp. lic. waiver.pdf;

Mr. Kibbe:

The Texas Behavioral Health Executive Council respectfully requests the OOG to withdraw or cancel the following waivers granted to the Texas State Board of Examiners of Psychologists:

1. The August 30, 2017 waiver granted to TSBEP for emergency temporary licensure following the Governor's Hurricane Harvey disaster declaration. See attached.
2. The April 21, 2020 waiver granted to TSBEP for emergency temporary licensure following the Governor's COVID-19 disaster declaration. See attached.

The Council (previously TSBEP) no longer receives requests for emergency temporary licensure based upon the disaster declaration issued following Hurricane Harvey, and thus no longer believes the waiver is necessary. Furthermore, while the Council does still receive requests for emergency temporary licensure related to the COVID-19 outbreak, the number of requests have dropped significantly and the Council believes the authorization to render aid in response to the COVID-19 declared disaster set out in Section 418.171 of the Government Code will meet the needs of those providers seeking to render aid in response to the declared disaster. Stated another way, this request will not preclude a licensed provider from another state from rendering aid if the provider meets the statutory requirements of Section 418.171. Unfortunately, the undersigned has reason to believe that emergency temporary licensure (under both the Harvey and COVID-19 waivers) is being used to deliver non-disaster related services under the guise of the disaster declaration. The processing and renewal of these emergency temporary licenses consumes valuable agency resources that are sorely needed in connection with the Sept. 1st launch of the Council.

Therefore, based upon the foregoing, the Council respectfully requests that the OOG withdraw or cancel the aforementioned waivers. Should you have any questions or concerns regarding these matters, please do not hesitate to call.

Sincerely,  
Darrel D. Spinks  
Executive Director



Darrel Spinks <darrel@tsbep.state.tx.us>

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## Suspension of Temporary Licensing Rules in Response to Hurricane Harvey

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Darrel Spinks <Executive.Director@tsbep.texas.gov>

Wed, Aug 30, 2017 at 2:02 PM

To: "Streufert, Preston" <[REDACTED]>

Preston:

In response to requests for emergency assistance with securing mental health providers for Hurricane Harvey evacuees, my agency would like to suspend portions of its temporary licensing rule and allow out-of-state licensed providers, who are in good standing with their home state jurisdictions, to obtain an emergency temporary license in Texas. This emergency temporary license would be valid for 120 days or until the Governor's disaster proclamation expires, whichever occurs first.

In accordance with the Governor's recent disaster proclamation, the Board respectfully requests permission from the Governor to suspend portions of its temporary licensing rule as described above. This request is made to better assist the citizens of this state with the disaster conditions flowing from Hurricane Harvey and not for any unlawful purpose.

Sincerely,  
Darrel D. Spinks

Executive Director  
Texas State Board of Examiners of Psychologists  
333 Guadalupe St., Ste. 2-450  
Austin, Texas 78701  
512-305-7700 office  
512-305-7701 fax



Darrel Spinks <darrel@tsbep.state.tx.us>

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## Suspension of Temporary Licensing Rules in Response to Hurricane Harvey

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Preston Streufert <[REDACTED]>  
To: Darrel Spinks <Executive.Director@tsbep.texas.gov>

Wed, Aug 30, 2017 at 4:18 PM

Dear Mr. Spinks,

The Office of the Governor is in receipt of Texas State Board of Examiners of Psychologists' request to temporarily suspend the Administrative Code provisions regarding temporary licenses issued by the Board. The Board asserts these laws could prevent, hinder or delay access to mental health treatment for the areas affected by Tropical Depression Harvey.

In accordance with section 418.016 of the Texas Government Code, the Office of the Governor temporarily suspends all necessary provisions in 22 Tex. Admin. Code §463.27 to allow providers licensed in another state and in good standing to receive an emergency temporary license from the Texas State Board of Examiners of Psychologists.

This suspension is in effect until terminated by the Office of the Governor or until the Tropical Depression Harvey disaster declaration is lifted or expires.

Please let me know if you have any questions.

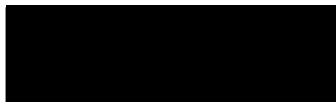
Thank you,

Preston

***Preston Streufert***

**Governor's Advisor**

**Office of Budget and Policy**



**From:** Darrel Spinks [mailto:Executive.Director@tsbep.texas.gov]  
**Sent:** Wednesday, August 30, 2017 2:03 PM  
**To:** Preston Streufert [REDACTED]  
**Subject:** Suspension of Temporary Licensing Rules in Response to Hurricane Harvey

Preston:

[Quoted text hidden]  
[Quoted text hidden]

Sincerely,

[Quoted text hidden]



Darrel Spinks <darrel@tsbep.state.tx.us>

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## Request to Suspend Temporary Licensing Rule in Response to COVID-19

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Darrel Spinks <Executive.Director@tsbep.texas.gov>

Fri, Mar 13, 2020 at 2:05 PM

To: Christopher Smith [REDACTED]

Chris:

In anticipation of requests for emergency assistance with securing mental health providers for the COVID-19 pandemic, my agency would like to suspend portions of its temporary licensing rule and allow out-of-state licensed providers, who are in good standing with their home state jurisdictions, to obtain an emergency temporary license in Texas. This emergency temporary license would be valid for 30 days or until the Governor's disaster proclamation expires, whichever occurs first. See Board rule 463.28 for the specifics on how emergency temporary licensure will operate should this request be approved.

In accordance with the Governor's recent disaster proclamation, the Board respectfully requests permission from the Governor to suspend portions of its temporary licensing rule as described above. This request is made to better assist the citizens of this state with the disaster conditions flowing from the COVID-19 pandemic and not for any unlawful purpose.

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



Darrel Spinks <darrel@tsbep.state.tx.us>

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## Request to Suspend Temporary Licensing Rule in Response to COVID-19

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Christopher Smith

Tue, Apr 21, 2020 at 10:27 PM

To: Darrel Spinks <Executive.Director@tsbep.texas.gov>

Dear Darrel Spinks:

The Office of the Governor is in receipt of the Behavioral Health Executive Council's (BHEC) request to temporarily suspend 22 Tex. Admin. Code 463.27(a)(1)-(2), (5)-(6), (b)-(f), and (h)-(j). BHEC asserts that strict compliance with these laws could prevent, hinder, or delay the deliverance of mental health services in relation to efforts to cope with the declared disaster.

In accordance with section 418.016 of the Texas Government Code, the Office of the Governor grants BHEC's request to suspend 22 Tex. Admin. Code 463.27(a)(1)-(2), (5)-(6), (b)-(f), and (h)-(j).

This suspension is in effect until terminated by the Office of the Governor or until the March 13, 2020 disaster declaration is lifted or expires.

Regards,

Chris Smith

Budget & Policy Advisor

Office of the Governor

[Quoted text hidden]



**ETL Stats**

Diane Moore &lt;[REDACTED]&gt;

Tue 10/20/2020 9:19 AM

To: Darrel Spinks &lt;[REDACTED]&gt;

Cc: Tim Speer &lt;[REDACTED]&gt;

As of October 20, 2020

<b>ETL Applications</b>	<b>Sept</b>	<b>Oct</b>
Newly issued	43	19
Renewed	26	68
<b>Total ETL</b>	<b>69</b>	<b>87</b>

Incomplete ETL	3	1
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Diane Moore, MBA

Executive Director, TSBEP

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**From:** Darrel Spinks <[REDACTED]>**Sent:** Monday, October 19, 2020 4:53 PM**To:** Diane Moore <[REDACTED]>**Cc:** Tim Speer <[REDACTED]>**Subject:**

Diane:

I need to know how many emergency temp. licenses are still active; how many we renew each month, and how many applications for ETL we are receiving.

Darrel

Executive Director

Texas Behavioral Health Executive Council

333 Guadalupe St., Ste. 3-900

Austin, Texas 78701

(512) 305-7700

[www.bhec.texas.gov](http://www.bhec.texas.gov)

#### 1.1.10.11 Copy of License, Temporary License, or Certification

Providers cannot enroll in Texas Medicaid if their license is due to expire within 30 days. During the enrollment process, TMHP verifies licensure using available resources. If TMHP cannot verify a license at the time of enrollment, it is the providers' responsibility to provide a copy of the active license to TMHP. Psychologists and facilities must submit a copy of their license since these licenses cannot be verified online.

TMHP will notify the provider by letter if a copy has not been submitted and the license cannot be verified.

Once a provider is enrolled in Texas Medicaid the license or certification must be kept current. A reminder letter for renewal will be sent to the provider 60 days before the provider's license expires.

TMHP directly obtains licensure information from the following licensing boards:

- Texas Medical Board (TMB) (for physicians only)
- Texas Board of Nursing (BON)
- Texas State Board of Dental Examiners (TSBDE)
- National Board of Certification and Recertification for Nurse Anesthetists (NBCRNA)
- The Executive Council of Physical Therapy and Occupational Therapy Examiners (ECPTOTE) (Physical Therapist only)
- Texas Optometry Board (TOB)

If a license cannot be verified due to a delay in obtaining the board licensing information, providers must request a letter from the licensing board for their individual provider information and submit it to TMHP by the deadline indicated in the reminder letter. The letter must contain the provider's specific identification information, license number, and licensure period.

All other licenses and certifications that are not issued by TMB, BON, or TSBDE must be submitted to TMHP upon renewal.

Important: Providers are also required to submit to TMHP, within 10 days of occurrence, notice that the provider's license or certification has been partially or completely suspended, revoked, or retired. Not abiding by this license and certification update requirement may impact a provider's qualification to continued participation in Texas Medicaid.

Refer to: [Subsection 1.1.10.14, "Licensure Renewal" in this section.](#)

# 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 W. Morris  
Jennifer Smothermon, M.A.

Darrel D. Spinks  
Executive Director

October 13, 2020

HHSC Medicaid and CHIP Services Dept.  
Operations Management MC:H312  
Attn: Caryl Chambliss  
P.O. Box 149030  
Austin TX 78714

Re: License Verification for Providers of Behavioral Health Services

Dear Ms. Chambliss:

I am writing to notify your agency and the Texas Medicaid & Healthcare Partnership (TMHP) that the Texas Behavioral Health Executive Council now provides real-time license verification through its online verification system for all of its licensees. Previously, real-time online license verification could only be obtained for licensed marriage and family therapists, licensed professional counselors, and licensed social workers through HHSC; the Texas State Board of Examiners of Psychologists (TSBEP) did not provide real-time online license verification for its licensees. However, with the transition of these programs to the Council, licensure for psychologists, psychological associates, and specialists in school psychology may also be verified online.

The Council's real-time online verification system can be accessed 24/7 at <https://www.bhec.texas.gov/verify-a-license/index.html> and provides licensees and members of the public alike with the option to print the verification status of a license. The information available through the online verification system is both accurate and based upon agency records. Moreover, search results from the online verification system are considered primary source verification.

This newly expanded access to license verification information is particularly important in the event the Council elects to discontinue issuance of renewal permits, a topic of discussion for the agency's October 27th meeting. If the agency elects to discontinue use of renewal permits, licensed providers and your agency will need to rely upon the online system (print-outs from that system) to verify licensure.

If you are interested in watching the October 27th virtual meeting, you may do so by downloading the agenda at <https://www.bhec.texas.gov/important-dates/index.html>. In the meantime, should you have any questions or concerns regarding this matter, please do not hesitate to call.

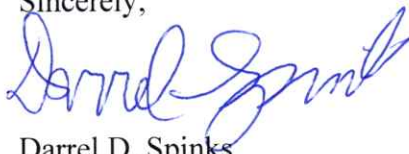
333 Guadalupe St. Suite 3-900, Austin, Texas 78701  
(Phone) 512-361-7700, [www.bhec.texas.gov](http://www.bhec.texas.gov)

*The Texas Behavioral Health Executive Council is an equal opportunity employer and does not discriminate based on race, color, religion, sex (including pregnancy, sexual orientation, or gender identity), national origin, disability, age (40 or older) or genetic information (including family medical history).*

October 13, 2020

Page 2 of 2

Sincerely,

A handwritten signature in blue ink, appearing to read "Darrel D. Spinks". The signature is fluid and cursive, with the first name "Darrel" being more prominent than the last name "Spinks".

Darrel D. Spinks  
Executive Director

## Thank you for contacting TMHP

General@tmhp.com <General@tmhp.com>

Sat 9/26/2020 12:25 AM

To: Darrel Spinks <[REDACTED]>

Thank you for your e-mail to the Texas Medicaid & Healthcare Partnership. We will reply by e-mail within 30 days. Most replies are much sooner. **If you need help right away, please call us.**

Contact center phone numbers

Gracias por enviar su mensaje de correo electrónico a Texas Medicaid & Healthcare Partnership. Le enviaremos una respuesta por correo electrónico dentro de 30 días. La mayoría de las respuestas son mucho más rápidas. **Si necesita ayuda en seguida, por favor llámenos.**

Contact center phone numbers

### **Index to Changes Suggested by OOG**

- 681.41(d) – pg. 7 of the PDF document
- 681.41(e)(5) – pg. 8 of the PDF document
- 681.52(e) – pg. 20 of the PDF document
- 681.72(f) – pg. 28 of the PDF document
- 681.81(b) – pg. 29 of the PDF document
- 681.83(d) – pg. 32 of the PDF document
- 681.93(g)(3) – pg. 34 of the PDF document
- 681.93(h)(3) – pg. 35 of the PDF document
- 681.114 – pg. 35 of the PDF document
- 681.164 – pg. 38 of the PDF document
- 681.205 attached graphic – pgs. 44 and 50 of the PDF document

The text highlighted in yellow throughout the rules reflects non-substantive changes recommended by the board at its September 11, 2020 regular meeting.

<rule>

## §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 accrediting agency recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education.
- (2) Act--The Licensed Professional Counselor Act, Texas Occupations Code, Chapter 503.
- (3) 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) Board--The Texas State Board of Examiners of Professional Counselors.
- (5) 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.
- (6) Consent for services--Process for receiving permission from the legally authorized person who agrees to services.
- (7) Consent Form--A document executed 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; 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 for the purpose of reporting violations of the Act or this chapter.
- (8) Council—the Texas Behavioral Health Executive Council.
- (9) 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, or LPC Associate license issued by the Council.
- (16) Licensee---A person who holds an LPC license, LPC license with art therapy specialty designation, or LPC Associate 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--Licensed Professional Counselor Associate. A person who holds an LPC Associate 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, L1.6033-2(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.
- (20) Supervisor--An LPC approved by the Council as meeting the requirements set out in §681.93 of this title (relating to Supervisor Requirements) to supervise an LPC Associate.



#### §681.4. Transaction of Official Business.

The board will transact official business only when in a legally constituted meeting with a quorum present.

#### §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.

#### §681.9. 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.

#### §681.11. Reimbursement for Expenses.

A board member is entitled to receive travel reimbursement as provided by the Texas General Appropriations Act.

<rule>

§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; and

(18) crisis counseling, which focuses on short term counseling interventions to address immediate situations including factors such as safety and immediate needs.

#### §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;
  - (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 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 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 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 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.
- (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 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, 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, or student's personal history;
  - (E) the client's, LPC Associate's, or student's current mental status;
  - (F) the likelihood of adverse impact on the client, LPC Associate, 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, 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, or student occurred:
- (1) with the consent of the client, LPC Associate, 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, 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, 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:
    - (A) the prosecuting attorney in the county in which the alleged sexual exploitation, sexual contact or therapeutic deception occurred; and
    - (B) the Council 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 use alcohol or drugs in a manner that adversely affects the licensee's ability to provide counseling.

§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 §§882.36 (relating to Compliance with State and Federal Law) and 884.32 (relating to Reportable Legal Action and Discipline) 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;

(4) Texas Civil Practice and Remedies Code, §81.006, concerning duty to report sexual exploitation by a mental health provider; and

(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.

#### §681.46. Licensees and the Council.

(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.

#### §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).

#### §681.49. 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 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 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 must indicate Associate 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.
- (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 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. 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,

(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.

**Commented [DS1]:** OOG recommends repealing this provision because [Section 153.6101](#) does provide that an LPC can 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 §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.

<rule>

§681.71. General Application Procedures.

- (a) An applicant must submit for review an official complete application with all supporting documentation, all applicable fees, and information required by law to the Council. Complete applications will consist of the required application materials described in Council rules §§882.1 (relating to Application Process), and 882.2 (relating to General Application File Requirements), and §681.72 of this title (relating to Required Application Materials).
- (b) To upgrade from LPC Associate status to LPC, an LPC Associate must submit the supervised experience documentation form, proof of passing the jurisprudence exam within six months prior to upgrade, and the applicable fee.

§681.72. Required Application Materials.

- (a) To apply for LPC Associate, the applicant must submit:
  - (1) the Council'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 before the date the application was received;
  - (5) an official graduate transcript(s);
  - (6) a practicum/graduate intern documentation form;
  - (7) a supervisory agreement form; and
  - (8) The holder of a current license in good standing issued by another jurisdiction equivalent to the Texas LPC Associate 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 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 license, the applicant must submit:

- (1) the Council's application form;
- (2) all applicable fees;
- (3) completion certificate for the jurisprudence exam dated no more than six months before the date the application for LPC was received;
- (4) the Council's supervised experience documentation form; and
- (5) other information or forms as requested by the Council.

(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) 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.
- (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.

**Commented [DS1]:** OOG recommends repealing this provision because the phrase "match or exceed" is not substantial equivalency.

#### §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 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 of this title 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.

#### §681.81. General Academic Requirements.

(a) The Council 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 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 of this title (relating to Applicants with Foreign Degrees).

(c) 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) The Council 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) The Council will consider courses for which an applicant's official transcript indicates a passing grade or credit was earned.

(f) In evaluating transcripts, the Council 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 subsection (b) of this section, to meet the 60 semester hour requirement:
    - (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 rules;
    - (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.

**Commented [DS2]:** OOG questioned whether this was mislabeled as paragraph (d) since the provision before it is also paragraph (d), or if this was language mistakenly left here from previous changes or placed here by accident.

§681.91. LPC Associate License.

- (a) The Council may issue an LPC Associate 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 must comply with all provisions of the Act and Council rules.
- (c) To practice counseling in Texas, a person must obtain an LPC Associate 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 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.
- (e) An LPC Associate may have no more than two (2) Council-approved LPC supervisors at any given time.
- (f) An LPC Associate must maintain their LPC Associate license during his or her supervised experience.
- (g) An LPC Associate license will expire 60 months from the date of issuance.
- (h) An LPC Associate who does not complete the required supervised experience hours during the 60-month time period must reapply for licensure.

- (i) An LPC Associate must continue to be supervised after completion of the 3,000 hours of supervised experience and until the LPC Associate receives his or her LPC license. Supervision is complete upon the LPC Associate receiving the LPC license.
- (j) An LPC Associate does not own client records; they are the property of the agency, organization, or LPC-S.
- (k) An LPC Associate 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 must not accept direct payment for services from a client.
- (m) All billing documents for services provided by an LPC Associate must reflect the LPC Associate holds an LPC Associate license and is under supervision.
- (n) The LPC Associate must not represent himself or herself as an independent practitioner. The LPC Associate's name must be followed by the name of the supervisor on all advertisements, billings, and announcements, including but not limited to websites and intake documents.

§681.93. Supervisor Requirements.

- (a) A supervisor must keep a written record of each supervisory session in the file for the LPC Associate.
  - (1) The supervisory written record must contain:
    - (A) a signed and dated copy of the Council's supervisory agreement form for each of the LPC Associate's supervisors;
    - (B) a copy of the LPC Associate'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 leave of one month or more, documenting the supervisor's approval and signed by both the LPC Associate and the supervisor; and
    - (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.
  - (2) The supervisor must provide a copy of all records to the LPC Associate upon request.

(b) The full professional responsibility for the counseling activities of the LPC Associate rests with the LPC Associate's approved supervisor(s). If the LPC Associate receives disciplinary action by the Council, the supervisor may also be subject to disciplinary action.

(1) Supervisors must review all provisions of the Act and Council rules in this chapter during supervision.

(2) The supervisor must ensure the LPC Associate is aware of and adheres to all provisions of the Act and Council rules.

(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 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.

(d) 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.

(e) 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.

(f) The supervisor must ensure the supervised counseling experience of the LPC Associate were earned:

(1) after the LPC Associate 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 under his or her supervision and assist the LPC Associates 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.

**Commented [DS3]:** OOG questioned whether this phrase means "shall not" or whether it is meant to imply the agency can accept the hours if it so chooses. If the former, then it is recommended that the phrase be changed to "shall not."



(h) 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:

(1) must immediately inform all LPC Associates under his or her supervision and assist the LPC Associates 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 without having Council approved supervisor status is grounds for disciplinary action.

**Commented [DS4]:** OOG questioned whether this phrase means "shall not" or whether it is meant to imply the agency can accept the hours if it so chooses. If the former, then it is recommended that the phrase be changed to "shall not."

#### §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 website.

#### §681.114. Licensing of Military Service Members, Military Veterans, and Military Spouses.

(a) An applicant applying for licensure under this section must comply with Council rule, §882.60 of this title (relating to Special Provisions Applying to Military Service Members, Veterans, and Spouses) .

(b) Licensing requirements that either match or exceed Texas requirements are considered substantially equivalent.

(c) For an application 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 determines is relevant to the licensing requirements, unless he or she holds a restricted license issued by

**Commented [DS5]:** No changes recommended at this time, but OOG requests that we revisit this rule in the future – as the other boards are doing – to ensure the rule aligns with Chapter 55 of the Occupations Code.

another jurisdiction or has a criminal history for which adverse licensure action is authorized by law.

#### 681.141. General Continuing Education Requirements.

(a) The purpose of Council rules §§681.141-681.147 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) A licensee must complete 24 clock-hours of continuing education acceptable to the Council 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 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.

(c) 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.

(1) The licensee must ensure the education provided is related to the practice of professional counseling.

(2) The licensee must ensure the individual(s) presenting the information have the necessary experience and knowledge in the topic(s) presented.

(3) The presenter must verify 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.

(4) The presenter must provide participants a mechanism for evaluation of each continuing education activity.

#### §681.143. Activities Unacceptable as Continuing Education.

The Council 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 of this title (relating to Acceptable Continuing Education).

§681.145. Determination of Clock-hour Credits.

- (a) Programs which meet the criteria of §681.142 of this title (relating to 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 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.

§681.147. 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); Subchapter C (relating to Application and Licensing); §681.91 of this title (relating to LPC Associate License); §681.92 of this title (relating to Experience Requirements); §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.

~~§681.164. Licensing of Persons with Criminal Convictions.~~

~~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) 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;~~
- ~~(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;~~

**Commented [DS6]:** This rule needs to be withdrawn; new rule 681.164 is being proposed in its place.

(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);

Rule: 681.164. Licensing of Persons with Criminal Convictions.

Action: Withdraw Proposal

Comment: The rule is being withdrawn and new language is being proposed.

~~§681.164.——Licensing of Persons with Criminal Convictions. 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)——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;~~
- ~~(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).~~

<rule>

§681.201. Purpose of this Subchapter.

This schedule of sanctions is adopted as required by the Act §503.2015(2).

§681.203. Severity Levels for the Schedule of Sanctions.

(a) The following are the severity levels for the schedule of sanctions:

(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 underling conduct.



§681.205. Schedule of Sanctions. The following standard sanctions shall apply to violations of the Act and these rules.

Figure: 22 TAC 681.205

Figure: 22 TAC §681.205

<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 <del>immediate</del> 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
	3 any restrictions placed on the license by the Council;	L4
	4 the limits on confidentiality;	L4
	5 any intent of the licensee to use another individual to provide counseling treatment intervention to the client; and	L4
	6 supervision of the licensee by another licensed health care professional including the name, address, contact information and qualifications of the supervisor;	L4
	7 the name, address and telephone number of the Council for the purpose of reporting violations of the Act or this chapter; and	L4
	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.	L4

§681.41(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.	L4
§681.41(g)		Technological means of communication may be used to facilitate the therapeutic counseling process.	L5
§681.41(h)		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.	L3
§681.41(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, must not be considered as a violation of state law relating to illegal remuneration.	L3
§681.41(j)		A licensee must not engage in activities for the licensee's personal gain at the expense of a client.	L4
§681.41(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.	L4
§681.41(l)		A licensee must set and maintain professional boundaries.	L4
§681.41(m)		Except as provided by this subchapter, non-therapeutic relationships with clients are prohibited.	L4
	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.	L4
	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.	L1
	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.	L5
	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.	L5
	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.	L4

§681.41(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.	L5
§681.41(p)		The licensee must take reasonable precautions to protect clients from physical or emotional harm resulting from interaction:	L5
§681.41(q)		For each client, a licensee must keep accurate records of:	L5
	1	signed informed consent, signed written receipt of information, or in the case of involuntary treatment a copy of the appropriate court order	L4
	2	intake assessment;	L5
	3	dates of counseling treatment intervention;	L5
	4	principal treatment methods;	L5
	5	progress notes;	L5
	6	treatment plan; and	L5
	7	billing information.	L5
§681.41(r)		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.	L5
§681.41(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.	L5
	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.	L5
	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.	L5
	4	A licensee may not knowingly overcharge a client.	L4
	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.	L4
§681.41(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.	L4
§681.41(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	L5

	licensee must follow the protocol set forth in such federal or state statutes.	
§681.41(w)	A licensee must terminate a professional counseling relationship when it is reasonably clear the client is not benefiting from the relationship.	L4
§681.41(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.	L5
§681.41(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.	L4
§681.41(z)	A licensee must not knowingly overtreat a client.	L4
§681.41(aa)	A licensee must not aid or abet the unlicensed practice of professional counseling by a person required to be licensed under the Act.	L1
§681.41(cc)	A licensee or an applicant for licensure must not participate in any way in the falsification of applications for licensure or renewal of license.	L1
§681.42(b)	A licensee must not engage in sexual contact with or sexual exploitation of a person who is:	
	1 a client	L1
	2 an LPC Associate supervised by the licensee; or	L1
	3 a student of a licensee at an educational institution at which the licensee provides professional or educational services.	L1
§681.42(c)	A licensee must not practice therapeutic deception of a client.	L1
§681.42(f)	A licensee must report sexual misconduct as follows:	
	1 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:	L5
	(A) the prosecuting attorney in the county in which the alleged sexual exploitation, sexual contact or therapeutic deception occurred;	L5
	(B) the Council if the conduct involves a licensee and any other state licensing agency which licenses the mental health provider; and	L5
	(C) to the appropriate agency listed in §681.45 of this title (relating to Confidentiality and Required Reporting).	L5
	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.	L5
§681.43(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.	L5

§681.43(b)		A licensee must not appropriate, reproduce, or modify copyrighted tests or any parts thereof without the acknowledgment and permission of the copyright owner.	L5
§681.43(c)		A licensee must not administer any test without the appropriate training and experience to administer and interpret the test.	L4
§681.43(d)		A licensee must observe the necessary precautions to maintain the security of any test administered by the license or under the licensee's supervision.	L5
§681.43(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.	L5
§681.44		A licensee must not:	
	1	use alcohol or drugs in a manner that adversely affects the licensee's ability to provide counseling;	L3
§681.45(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.	L4
§681.45(c)		A licensee must comply with Texas Health and Safety Code, Chapters 181 and 611, concerning access to mental health records and confidential information.	L4
§681.45(d)		A licensee must report information as required by the following statutes:	
	1	Texas Family Code Chapter 261, Subchapter B, concerning report of abuse or neglect of minors;	L4
	2	Texas Human Resources Code Chapter 48, Subchapter B, concerning reports of abuse, neglect, or exploitation of elderly or disabled persons;	L4
	3	Texas Health and Safety Code Chapter 161, Subchapter L, concerning abuse, neglect, and unprofessional or unethical conduct in health care facilities; and	L4
	4	Texas Civil Practice and Remedies Code, §81.006, concerning duty to report sexual exploitation by a mental health provider.	L4
	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.	L4
§681.46(b)		A licensee has the responsibility of reporting alleged violations of the Act or this chapter to the Council.	L5
§681.47(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).	L5
§681.49(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.	L5
§681.49(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	L5

	if the degree would be accepted as a transfer degree by an accredited school.	
§681.49(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.	L5
§681.49(g)	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."	L5
§681.49(h)	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.	L5
§681.49(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.	L5
§681.50(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.	L5
§681.50(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.	L5
§681.50(c)	When conducting or reporting research, a licensee must give recognition to previous work on the topic as well as observe all copyright laws.	L5
§681.50(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.	L5
§681.91(d)	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.	L1
§681.91(l)	An LPC Associate must not accept direct payment for services from a client.	L4
§681.93(c)(2)	The supervisor may not be an employee of his or her LPC Associate.	L5
§681.93(a)	A supervisor must keep a written record of each supervisory session in the file for the LPC Associate.	
	1 The supervisory written record must contain:	
	(A) a signed and dated copy of the Council's supervisory agreement form for each of the LPC Associate's supervisors;	L5
	(B) a copy of the LPC Associate's wall certificate noting the dates of issuance and expiration;	L5

		(C) fees and record of payment;	L5
		(D) the date of each supervisory session;	L5
		(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	L5
		(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.	L5
	2	The supervisor must provide a copy of all records to the LPC Associate upon request.	L5
§681.93(c)		The supervisor must avoid any relationship that impairs the supervisor's objective, professional judgment.	L5
	1	The supervisor may not be related to the LPC Associate within the second degree of affinity or within the third degree of consanguinity.	L5
	2	The supervisor may not be an employee of his or her LPC Associate.	L5
§681.93(d)		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.	L5
§681.93(e)		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.	L5
§681.93(f)		The supervisor must ensure the supervised counseling experience of the LPC Associate were earned:	
	1	after the LPC Associate license was issued; and	L5
	2	in not less than 18 months of supervised counseling experience.	L5
§681.93(h)		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:	
	2	must refund all supervisory fees for supervision after the date the supervisor status is revoked; and	L4
§681.51(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.	
	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.	L4
§681.52(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.	L4
§681.52(e)		In accordance with Texas Family Code, §153.6101(b)(1), a licensed professional counselor associate must not serve as a parenting facilitator.	L5

**Commented [DS1]:** OOG recommends repealing this provision because [Section 153.6101](#) does provide that an LPC can serve as a parenting facilitator.



§681.52(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.	L5
§681.52(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.	L5
§681.52(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.	L5
§681.52(l)	A licensee serving as a parenting facilitator must not provide legal advice.	L5
§681.52(m)	A licensee serving as a parenting facilitator must serve by written agreement of the parties and/or formal order of the court.	L5
§681.52(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.	L5
§681.52(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.	L5
§681.52(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;	L5
	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;	L5
	3 must not coerce or improperly influence any party to make a decision;	L5
	4 must not intentionally or knowingly misrepresent or omit any material fact, law, or circumstance in the parenting facilitator process; and	L5
	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.	L5
§681.52(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.	L5
§681.52(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.	L5
§681.52(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:	L5
	1 the limitations on confidentiality in the parenting facilitation process; and	L5

	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.	L5
§681.52(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.	L5
§681.52(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.	L5
§681.52(x)		(x) A licensee serving as a parenting facilitator:	L5
	1	must comply with all mandatory reporting requirements, including but not limited to Texas Family Code Chapter 261, concerning abuse or neglect of minors;	L5
	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;	L5
	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;	L5
	4	must maintain notes regarding all communications with the parties, the children, and other persons with whom they speak about the case; and	L5
	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.	L5
§681.52(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.	L5
§681.52(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.	L5
§681.52(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.	L5
§681.52(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.	L5
§681.52(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.	L5

§681.52(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.	L5
§681.53(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.	L5
§681.53(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.	L5
§681.53(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.	L5
§681.53(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.	L5
§681.53(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.	L4
§681.53(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.	L3
§681.53(h)		Licensees providing child custody evaluations or adoption evaluations must, prior to beginning the evaluation, in writing inform the parties of:	L5
	1	The limitations on confidentiality in the evaluation process; and	L4
	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.	L4
§681.53(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.	L4

## Repeal Rules

~~[\\$681.10.——Executive Director]~~

~~[\\$681.12.——Official Records of the Board]~~

~~[\\$681.13.——Impartiality and Non-discrimination]~~

~~[\\$681.14.——Fees]~~

~~[\\$681.15.——Processing Procedures]~~

~~[\\$681.16.——Petition for the Adoption of a Rule]~~

~~[\\$681.17.——Request for Criminal History Evaluation Letter]~~

Repealed rule

~~[\$681.31.—Counseling Methods and Practices.]~~

Repealed rules

~~[\\$681.41.——General Ethical Requirements.]~~

~~[\\$681.42.——Sexual Misconduct.]~~

~~[\\$681.43.——Testing.]~~

~~[\\$681.44.——Drug and Alcohol Use.]~~

~~[\\$681.45.——Confidentiality and Required Reporting.]~~

~~[\\$681.46.——Licenses and the Board.]~~

~~[\\$681.47——Assumed Names.]~~

~~[\\$681.48.——Consumer Information.]~~

~~[\\$681.49.——Advertising and Announcements.]~~

~~[\\$681.50.——Research and Publications.]~~

~~[\\$681.51.——Finding of Misconduct Occurring before Licensure.]~~

Repealed rules

~~[\S681.71.——General Application Procedures.]~~

~~[\S681.72.——Required Application Materials.]~~

~~[\S681.73.——Application for Art Therapy Specialty Designation.]~~

Repealed rules

~~[\\$681.81.——General Application Procedures.]~~

~~[\\$681.82.——Academic Requirements.]~~

~~[\\$681.83.——Academic Course Contents.]~~



Repealed rules

~~[\$681.91.——LPC Intern License.]~~

~~[\$681.93.——Supervisor Requirements.]~~

Repealed rules

~~[\S681.101.—Examinations.]~~

~~[\S681.102.—Notice of Results.]~~

~~[\S681.103.—Reexamination.]~~

Repealed rules.

~~[\\$681.111.—LPC Intern License.]~~

~~[\\$681.112.—Supervisor Requirements.]~~

~~[\\$681.113.—Reexamination.]~~

~~[\\$681.114.—Licensing of Military Service Members, Military Veterans, and Military Spouses.]~~

Repealed rules

~~[\$681.121.—General Renewal Requirements.]~~

~~[\$681.123.—License Renewal.]~~

~~[\$681.124.—Late Renewal.]~~

~~[\$681.125.—Inactive Status.]~~

~~[\$681.126.—Retired Status.]~~

Repealed rules

~~[\S681.141.—General Continuing Education Requirements.]~~

~~[\S681.142.—Acceptable Continuing Education.]~~

~~[\S681.143.—Activities Unacceptable as Continuing Education.]~~

~~[\S681.145.—Determination of Clock-hour Credits.]~~

~~[\S681.146.—Reporting of Continuing Education.]~~

~~[\S681.147.—40 Clock-Hour Supervisor Training Course]~~

Repealed rule

~~[\S681.161.—Complaint Procedures.]~~

~~[\S681.162.—Disciplinary Action; Notices.]~~

~~[\S681.164.—Licensing of Persons with Criminal Convictions.]~~

~~[\S681.165.—Suspension, Emergency Suspension, Revocation, or Denial]~~

~~[\S681.166.—Informal Disposition.]~~

~~[\S681.167.—Waiver of Right to Hearing.]~~

~~[\S681.168.—Surrender of License when Complaint is Pending.]~~

~~[\S681.169.—Suspension of License for Failure to Pay Child Support or Non-Compliance with Child Custody Order.]~~

~~[\S681.170.—Monitoring of Licensees.]~~

~~[\S681.171.—Assessment of Administrative Penalties.]~~

~~[\S681.172.—Due Process Following Violation of an Order.]~~

Repealed rules

~~[\S681.181—Purpose.]~~

~~[\S681.182.—Formal Hearing Procedures.]~~

~~[\S681.184.—Action After the Hearing.]~~

Repealed rules

~~[\S681.201—Purpose of Subchapter M.]~~

~~[\S681.202.—Relevant Factors.]~~

~~[\S681.203.—Severity Levels and Sanction Guide.]~~

~~[\S681.204.—Other Actions]~~



Repealed rules

~~[\S681.251—Parenting Coordination.]~~

~~[\S681.252.—Parenting Facilitation.]~~

~~[\S681.253.—Child Custody Evaluation, Adoption Evaluation, and Evaluations in Contested Adoptions.]~~

## **Comments received for the proposed rules - LPC**

Linda Ledwig – 681.2

Loraine Swift – 681.2

Christina Story – 681.2

Kimberly Weaster – 681.2

Sharon Ward – 681.2, 681.4, 681.41, 681.203

Marissa Flores – testing limits

Brenda Elledge

Lorena Watson – 681.2

Megan Van Meter – 681.73

Lori Vann

Tiffany Turner – 681.2

Mark Jorges – 681.2

Linda Ledwig

Greta Davis – 681.2, 681.13

Greta Davis – 681.41

Bailey Hagler – 681.2

Casey Lunn – 681.2, 681.13, 681.16

Dennette Gardner – 681.2, 681.13, 681.16, 681.202

Natika Johnson – 681.2

Susan Adams – 681.2

Dane Brinsko – 681.2

Debbie Seeger – 681.2

Jesusa Jasso – 681.2, 681.13, 681.16, 681.16, 681.202

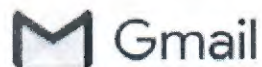
Betty Dawson (TAPA) – 681.2

Margaret Carlock Russo, President AATA – 681.2, 681.73, 681.82, 681.83

Elizabeth Dossman – 681.2, 681.13, 681.16

Monica Gutierrez – 681.2

Yolande Ford – 681.13



Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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**LPC Intern to Associate**

2 messages

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**linda ledwig** <llcounselor@llcounseling.net>  
To: Open.Records@tsbep.texas.gov

Mon, Jul 20, 2020 at 11:14 AM

Thank you for the opportunity to comment on this change. I fully support this. LPC should be in line with LMFT with Associate instead of intern as well as in accepting payment for services and setting up private practice.

Thanks!

Linda Ledwig

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Linda Ledwig, M.S., LPC Intern, NCC

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

Wed, Jul 22, 2020 at 10:02 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]



Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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**LPC Intern Change to LPC Associate**

2 messages

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**Loraine Swift** <loraine.swift6@gmail.com>

Mon, Jul 20, 2020 at 12:26 PM

To: Open.Records@tsbep.texas.gov

This is an overdue change and welcomed change. The term "intern" gives the implication that a professional is still in school or is not qualified to do the job to meet the full expectations. Licensed LPC Interns have passed the state exam and have completed the master's degree- and may have five or more years of experience.

This name change to LPC Associate will allow for more credibility and job opportunities for these professionals.

Sincerely,

Loraine Swift, LPC Intern  
Schertz, TX

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

Wed, Jul 22, 2020 at 10:02 AM

To: Patrick Hyde &lt;general.counsel@tsbep.state.tx.us&gt;

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**

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**From:** Christina Story <drstorycounseling@gmail.com> on behalf of Christina Story  
**Sent:** Monday, July 20, 2020 1:20 PM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** LPC Intern to LPC Associate

Dear Texas Representative,

I would like to voice my opinion regarding the term used to identify individuals who are working towards their full licensure as an LPC. I strongly believe that the word 'intern' is a misnomer for someone who has fulfilled all of the requirements for their graduate program, and passed the NCE.

In my opinion, the word intern implies that the individual is still a student.

I strongly encourage you to reconsider the use of this term and to update it to LPC Associate. The word associate gives more credibility to the practitioner, and instills more confidence in their abilities.

Thank you for your attention to this matter.

Sincerely,

*Christina A. Story, Ph.D.*  
*Licensed Professional Counselor*  
*(936) 703-7603 (call or text)*

<http://www.drchristinastory.com/>

10210 Grogans Mill Rd.  
Suite  
The Woodlands, Texas 77380

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**Brenda Skiff**

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**From:** Kimberly Weaster <kimberly@cedarcabincounseling.com> on behalf of Kimberly Weaster  
**Sent:** Tuesday, July 21, 2020 12:45 PM  
**To:** open.records@tsbep.texas.gov  
**Subject:** Re: Support of Change of Credential from LPC Intern to LPC Associate

I support the change of credential from LPC Intern to LPC Associate.

Thank you,

Kimberly Weaster, M.Ed., LPC-ACS, NCC



## Brenda Skiff

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**From:** sharon ward <lpc.ward@yahoo.com> on behalf of sharon ward  
**Sent:** Monday, July 27, 2020 12:05 PM  
**To:** open.records@tsbep.texas.gov  
**Subject:** Attention: Barbara Skiff RE: Texas Behavioral Health Executive Council Calls for Public Comment re Proposed Changes to 22 TAC Ch 681 (LPC Rules)

For your consideration.

Sincerely,

*Sharon L. Ward, MS, LPC, NCC*

My thoughts about the LPC section are as follows:

681.2 item 4 (5) Why is the board listed if it will no longer be an entity [i.e. replaced by TBHEC].

681. item 7 (9). Consent for services is being changed from signed to executed. Seems more unclear to use executed. What does that actually mean?

Intern is changing to associate. I believe this is a more confusing term to the general public. Associations can also be business in nature. Intern is a more familiar term to the average person.

681.4 Removing the requirement to have a quorum of the board to take action and also removing the requirement for Robert's Rules of Order to be used seems to leave actions by the board much freer which is not necessarily a good thing - removes some due process.

681.41 (bb) Requires that licensees report counseling practices performed by non licensed counselors. There is no further statement about what the board will do. I've reported this in the past and they responded with "There is nothing we can do if they aren't licensed."

Counseling Methods should include EMDR.

681.41 (d) states that licensees should make reasonable attempts to remove misleading information that has been generated by another party. I think this is too vague. People can [and do] post whatever they want on all kinds of platforms - both positive and negative. There is no reasonable way to monitor this.

681.41 (f) We are required to inform the client in writing of any changes to the informed consent. It does not indicate if a signature is required. I think this leaves the LPC in a he-said, she-said situation.

681.41 (s) Why would an employee of an agency NOT be required to maintain the same level of record keeping as outlined in section [q)?



681.203 Severity levels. Where does the \$ 5,000 fine per day of occurrence go? I'd like to see that used for victim's compensation for treatment.

Sincerely,

*Sharon L. Ward, MS, LPC, NCC*

*104 Maverick Street [Wednesday and Thursday]  
Aledo, Texas 76008*

*GTW/YM  
4200 S. Hulen Street, Suite 450 [Monday and Tuesday]  
Fort Worth, Texas 76109*

*817-441-9973  
sharonwardcounseling.com*

**Reminder:** In using this e-mail address, you are acknowledging that you understand that I cannot guarantee that messages will be confidential due to the inherent security limitations on the internet. Information shared with me may/may not be used in future sessions and I may/may not respond via e-mail. I do not check this email daily and sometimes, messages do not go through (either to or from me) so please check back as needed or contact me by phone. If you are in a life threatening situation, please call 911 or go to the emergency room. Thank you.

Appointments are offered on a first come, first serve basis. Sometimes, I will offer an appointment via email and not hear back and will schedule someone else in that slot. If you want to make sure that an appointment offered to you has been scheduled, please call the office and speak to me directly.

----- Forwarded Message -----

**From:** Texas Health and Human Services Commission <txhhs@public.govdelivery.com>

**To:** "lpc.ward@yahoo.com" <lpc.ward@yahoo.com>

**Sent:** Monday, July 27, 2020, 10:06:53 AM CDT

**Subject:** Texas Behavioral Health Executive Council Calls for Public Comment re Proposed Changes to 22 TAC Ch 681 (LPC Rules)

The Texas State Board of Examiners of Professional Counselors is an independent licensing board administratively attached to the Texas Health and Human Services Commission (HHSC). The Board, as an independent entity, maintains a management structure and decision-making authority separate from HHSC. This message is an official communication from the Texas State Board of Examiners of Professional Counselors.

On May 15, 2020, the Texas State Board of Examiners of Professional Counselors (LPC Board) voted to recommend changes to Title 22 of the Texas Administrative Code, Chapter 681 to align with statutory amendments made by House Bill 1501, 86th Legislature, Regular Session (2019) to Title 3 of the Texas Occupations Code, Chapters 503 and 507. This legislation created the Texas Behavioral

Health Executive Council (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 Title 3 of the Texas Occupations Code authorize the Executive Council to administer and enforce Chapters 501, 502, 503, 505, and 507 of Title 3 of the Texas Occupations Code, as well as adopt rules as necessary to perform the Executive Council's duties. On June 16, 2020, the Executive Council considered the LPC Board's recommended changes and voted to publish proposed rules.

On July 17, 2020, the Executive Council's proposed rules concerning Chapter 681 were published in the *Texas Register* [45 TexReg 4876], available on the Texas Secretary of State's website at <https://www.sos.state.tx.us/texreg/index.shtml>.

**Call for Public Comment:** Comments on the proposed rules may be submitted to Brenda Skiff, Public Information Officer, Texas State Board of Examiners of Psychologists, 333 Guadalupe, Ste. 2-450, Austin, Texas 78701, within 30 days of publication of this proposal in the *Texas Register*. Comments may also be submitted via fax to (512) 305-7701, or via email to [Open.Records@tsbep.texas.gov](mailto:Open.Records@tsbep.texas.gov).

**Click the link below to view the *Texas Register* in HTML or Adobe Acrobat (PDF) format.**

- [Texas Register \[45 TexReg 4876\], LPC Chapter 681 Proposed Rules \(HTML format\)](#)
- [Texas Register \[45 TexReg 4876\], LPC Chapter 681 Proposed Rules pages 20-59 \(Adobe Acrobat format\)](#)

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get the word out.



## Brenda Skiff

---

**From:** Marissa Flores <marissa72368@gmail.com> on behalf of Marissa Flores  
**Sent:** Monday, July 27, 2020 3:35 PM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** Licensing consideration

Council men and women:

I have read the proposal for LPCs licensure updates and I am requesting that you consider not placing any limits on testing for LPC's. As current instability our nation is facing, many potential applicants are also struggling to help out our fellow communities. We have also become discouraged because of the limits placed on how many times a person can re-test in Texas, while in other states, people have an unlimited time of re-testing and get licensed and then come to Texas and do the reciprocity of their license from another state.

I am requesting consideration in this matter.

Respectfully,

Marissa Flores  
210-987-7227

--

Luz Marissa Flores

## Brenda Skiff

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**From:** Brenda Elledge <brendaelledge@sbcglobal.net> on behalf of Brenda Elledge  
**Sent:** Tuesday, July 28, 2020 12:47 AM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** Response to Proposed Changes to Texas LPC Code

Hello,  
I have concerns about the following:

*(d) 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*

The wording that stipulates LPC Associates may not "own an independent counseling practice" are being interpreted by some to imply that LPC Associates are required to practice only as W-2 employees rather than contract labor.

The designation of IRS Independent Contractor refers to norms of practice across very broad occupational categories, and clearly the IRS was referring to individuals who do not own the business they supply work product or service for.

This is obviously the case for LPC Interns/Associates. When they work for a private practice under an LPC Supervisor, they clearly do not own the private practice any more than they own the state agency or for-profit hospital they work for.

My current LPC Interns/Associates fit the standards of IRS Contract Labor. I provide the same clinical supervision to the Interns/Associates that see clients in my private practice as those who see clients as W-2 employees elsewhere.

By wording the code in such a way as above, the Council seems to be stating that Associates can only be W-2 employees. Yet, the wording is also ambiguous and leaves room for interpretation.

If you indeed are making the determination that LPC Associates can only be W-2 employees then you have set up financial difficulty and hardship for small, local private practices run by LPC Supervisors like myself. Running a financially viable small-business is very difficult. I am a one-woman show who cannot afford to hire more and more people to do the work of bookkeeping, accounts, etc. the same way that large hospitals or state agencies can. By keeping overhead low, my practice is able to provide services to the community that are less expensive than others, as well as provide opportunities for interns/associates. A win-win for all!

But now I fear, I may be judged as unethical or illegal for having Associates as contract labor in my private practice, or I will have to let them go, because it is more expensive for me to hire a CPA to help me manage taxes, W-2 employment requirements, etc.

Please consider revising the wording above. We all understand that LPC Associates do not own a private practice and can not practice counseling without supervision. These standards can easily be adhered to while they are contact labor withing a private practice.

Brenda Elledge, M.Ed., L.P.C.-S  
Trained EMDR Therapist  
[www.elledgēcounseling.com](http://www.elledgēcounseling.com)



## Brenda Skiff

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**From:** Lorena Watson <info@lorenawatson.com> on behalf of Lorena Watson  
**Sent:** Friday, July 31, 2020 3:29 PM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** Public Comment - TSBEP

I support the rule changes replacing the word Intern with Associate as it offers parity with other similar licenses and legitimizes the profession and license as a whole. This allows the public to no longer feel weary of seeing a clinician under supervision because the title "intern" implies that someone may be a student and thus under-qualified for the work they are doing. Changing Intern to Associate will also encourage more interested individuals to seek licensure for LPC as there will not be a long period of professional practice under a student title. This is a great move for our profession.

Lorena Watson  
Austin, TX

## Brenda Skiff

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**From:** Megan Van Meter <megan@abcsfortherapists.com> on behalf of Megan Van Meter  
**Sent:** Friday, July 31, 2020 5:01 PM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** public comment re proposed LPC rules

Hello. I'd like to point out that the American Art Therapy Association is in the process of phasing out its approval process for graduate art therapy educational programs. The Accreditation Council for Art Therapy Education (<https://www.caahep.org/About-CAAHEP/Committees-on-Accreditation/Art-Therapy.aspx>) is now the organization that accredits these, although not all graduate programs have converted over to the new system yet. This ongoing change needs to be taken into consideration in reference to the following from the proposed rules (I've **bolded** the affected text):

### SUBCHAPTER C. APPLICATION AND LICENSING

§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 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).**

Thank you for your attention to this matter. I am notifying the American Art Therapy Association and the Accreditation Council for Art Therapy Education so these two entities can weigh in during the period for public comments.

Megan Van Meter, MA, LPC-AT/S, ATR-BC

Licensed Professional Counselor with Art Therapy Specialty Designation and Supervisor Status

Board Certified Registered Art Therapist



## Brenda Skiff

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**From:** Lori Vann <lori@lorivann.com> on behalf of Lori Vann  
**Sent:** Friday, July 31, 2020 7:51 PM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** Feedback on proposed LPC Board Rules

Greetings LPC Board Proposed Rules Committee.

It is always appreciated how the Board continues to review and amend the Rules to match what is occurring in the profession. I have been reviewing the proposed Rules and had a few comments.

First, I understand extending the holding of records for 7 years to be more in line with HIPAA and insurance requirements. I do really appreciate adding the age of majority piece of keeping the records until someone turns 18 and then 5 years after that. This is something that I have advocated for during the ethics' talks that I give.

As a supervisor, I am fine if my name is in a different font style or size (as long as it isn't 6 pt or smaller) on my interns' advertising; I think that is how I understood it.

I was wondering about having my office address listed on their cards and marketing, as that may be confusing to clients of an agency where my intern may be seeing clients. The client may be confused as to where the services are taking place. In addition, some agencies have a set format for their business cards and may not permit the intern to have the supervisor's address on their marketing materials or it may not fit on the card or bill. For Interns who work in the supervisor's practice, there would be no issue in having the address listed.

I also had a question about having your full legal name listed on the marketing materials. This is more of a safety and privacy consideration. For example, what if a counselor has young kids and works with clients that are not always the most rational. The client finds out the counselor's married name and then trolls the internet and finds the spouse's name and/or where the kids go to school. That client can then harass the counselor's family. I know of counselors who go by their maiden names instead of their married names for their practice so as to protect their family from possible stalking or harassment.

For some counselors who live in smaller cities, this could be an even bigger concern. It is one thing if a client bumps into a counselor in public and happens to see them with their family, as then the client only knows that the counselor may live in that area. But to have the counselor's full legal name seems to be a safety risk for counselors who work with high-risk clients. I know that a client's husband was able to find my home phone number and left me a voice mail at home.

There is another case that I know of where a female who had been let go by several counselors had stalked them on social media, contacted their connections on there, and in 2 cases found out where the counselors lived and went to their homes. She even destroyed some property at one counselor's home. I would kindly ask that the Board consider another option other than having to have the full legal name on marketing materials or the license that hangs in the counselor's office for all to see.

Or a possible compromise that if the counselor has children that if the child and counselor share the same last name that the counselor be allowed to list their maiden name until the last child has turned 18. A third option, if the counselor can show that they have been harassed by a client or had to take legal action due to harassment that they be exempt.

Thank you for your time in reading and considering these comments, and thank you for your service.





## Authority on the Prevention and Treatment of Self-injury

International Speaker and Media Commentator

Author of *A Caregiver's Guide to Self-injury*, *A Practitioner's Guide to the Treatment of Self-injury: tips, techniques, activities, and debates*, *A Practitioner's Guide: The WORKBOOK*, *The Self-injury Prevention Activity Workbook*, and **Book #5--Cause of Death: Political Correctness---**find out about its unintended consequences to creativity, productivity, and even our safety! **Books # 6 and #7 on Overcoming Perfectionism**  
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## Brenda Skiff

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**From:** Tiffany <tiff.turner@live.com> on behalf of Tiffany  
**Sent:** Saturday, August 8, 2020 10:10 AM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** Comment

As A LPC-S, I do not care for the change from LPC-intern to LPC-associate. I think the intern wording provides a more clear picture about level of development in the field. I think it is important for advertisement to reflect that the counselor is novice and the word associate makes them seem more like a business partner. It is also more for them to have to write out. I do not support this change. Thank you for consideration of my comment, -Tiffany Turner, LPC-S

Sent from my iPhone

## Brenda Skiff

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**From:** Mark Jorge <divisionincision@yahoo.com> on behalf of Mark Jorge  
**Sent:** Saturday, August 8, 2020 12:54 PM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** Rule Change Comments (LPC): Licensing Board Deadlines and Rule Changes

Hello,

In regards to the proposed changes and having read through Title 22, I'm not understanding the need to change from LPC-Intern to LPC Associate. Is it due to a consolidation of all HHS to BHEC or is there something wrong with how "Intern" is perceived as opposed to "Associate".

The mechanics of the licensure haven't changed, so this seems cosmetic. Is it really needed? I don't think so.

Also, would I be issued a new LPC-Associate licensure when this goes in to effect in late Fall 2020?

Regards,

Mark Jorge  
LPC-Intern, LCDC, NCC

On Saturday, August 8, 2020, 07:20:15 AM CDT, Texas Counseling Association <avery@txca.org> wrote:

## Brenda Skiff

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**From:** linda ledwig <llcounselor@llcounseling.net> on behalf of linda ledwig  
**Sent:** Sunday, August 9, 2020 9:29 PM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** LPC Associate

Hello,  
My comments on this rule are that it is long overdue. I am so glad to see this distinction. I was considered an intern while I was in school and after graduation, it is confusing for clients to explain that I am still an "intern". Associate at least acknowledges a distinction between pre-graduate and post-masters-graduate working on supervised hours.

Parity between LMFT and LPC who both require Masters degrees, passing of a state examination, and clinical hours should exist. This includes being referred to as an Associate rather than intern and should equally apply to being able to open a private practice and accept payment from clients just like MFT do.

Thank you!  
Linda Ledwig



## Brenda Skiff

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**From:** Davis, Greta <gretad@mail.smu.edu> on behalf of Davis, Greta  
**Sent:** Monday, August 10, 2020 9:09 AM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** Comment on LPC Board Rules

To whom it may concern:

I am writing in support of changing the definition of licensee (681.2 Definitions) from LPC-Intern to LPC-Associate because this change more accurately describes the level of skill and qualifications that graduates who have completed their degrees and passed their licensing exam possess.

Also, I would like for the board to retain the (19) Recognized Religious Practitioner definition because I think it's important that these individuals, while they have an exemption in their provision of counseling related support need to be affiliated with a legally recognized religious organization. It is my understanding that this definition, or a similar definition, was retained in the proposed TSBEMFT and TSBEP rules. Given that a goal of BHEC is consistency across the Boards, there is no reason to remove this rule.

As it relates to 681.13 Impartiality and Non Discrimination, I strongly disagree with removing this rule. While many of the deleted rules are now included in the rules governing BHEC, a rule explicitly prohibiting discrimination by the licensing boards is NOT included in the BHEC rules. Inclusion of this rule makes it clear to licensees and the public that the TSBEP is explicitly prohibited from considering age, race, religion, ethnicity, sex, disability, national origin or genetic information when making decisions. The argument that prohibitions against discrimination may be found in other statutes does not preclude inclusion of this rule. There is no harm in retaining this rule and could provide the benefit of maintaining transparency in the operations of the Board.

Thank you for your consideration.

**Greta A. Davis**, PH.D., LPC-S, NCC, CCC  
Department Chair, Dispute Resolution & Counseling  
Clinical Associate Professor  
6116 N. Central Exp. | Suite 300 | Dallas, TX 75206  
Office: 214.768.5671 | Mobile: 972-841-7447  
[gretad@smu.edu](mailto:gretad@smu.edu)



## Brenda Skiff

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**From:** Davis, Greta <gretad@mail.smu.edu> on behalf of Davis, Greta  
**Sent:** Monday, August 10, 2020 9:16 AM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** Re: Comment on LPC Board Rules

I would like to add an addendum to my original submission to request that the non-discrimination statement be added to the General Ethical Requirements section of the code §681.41. *General Ethical Requirements*. It is imperative that the citizens of Texas know that their Licensed Professional Counselor will not discriminate in the provision of their services on the basis of age, race, religion, ethnicity, sex, [insert gender, affectional orientation], disability, national origin or genetic information.

Thank you,

**Greta A. Davis**, PH.D., LPC-S, NCC, CCC  
Department Chair, Dispute Resolution & Counseling  
Clinical Associate Professor  
6116 N. Central Exp. | Suite 300 | Dallas, TX 75206  
Office: 214.768.5671 | Mobile: 972-841-7447  
[gretad@smu.edu](mailto:gretad@smu.edu)



---

**From:** Davis, Greta  
**Sent:** Monday, August 10, 2020 9:09 AM  
**To:** Open.Records@tsbep.texas.gov  
**Subject:** Comment on LPC Board Rules

To whom it may concern:

I am writing in support of changing the definition of licensee (681.2 Definitions) from LPC-Intern to LPC-Associate because this change more accurately describes the level of skill and qualifications that graduates who have completed their degrees and passed their licensing exam possess.

Also, I would like for the board to retain the (19) Recognized Religious Practitioner definition because I think it's important that these individuals, while they have an exemption in their provision of counseling related support need to be affiliated with a legally recognized religious organization. It is my understanding that this definition, or a similar definition, was retained in the proposed TSBEMFT and TSBEP rules. Given that a goal of BHEC is consistency across the Boards, there is no reason to remove this rule.

As it relates to 681.13 Impartiality and Non Discrimination, I strongly disagree with removing this rule. While many of the deleted rules are now included in the rules governing BHEC, a rule explicitly prohibiting discrimination by the licensing boards is NOT included in the BHEC rules. Inclusion of this rule makes it clear to licensees and the public that the TSBEPC is explicitly prohibited from considering age, race, religion, ethnicity,



sex, disability, national origin or genetic information when making decisions. The argument that prohibitions against discrimination may be found in other statutes does not preclude inclusion of this rule. There is no harm in retaining this rule and could provide the benefit of maintaining transparency in the operations of the Board.

Thank you for your consideration.

***Greta A. Davis***, PH.D., LPC-S, NCC, CCC  
Department Chair, Dispute Resolution & Counseling  
Clinical Associate Professor  
6116 N. Central Exp. | Suite 300 | Dallas, TX 75206  
Office: 214.768.5671 | Mobile: 972-841-7447  
[gretad@smu.edu](mailto:gretad@smu.edu)





Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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**LPC Associate**

1 message

**Bailey Hagler** <bhagler@starcarelubbock.org>

Wed, Aug 12, 2020 at 10:04 AM

To: "Open.Records@tsbep.texas.gov" &lt;Open.Records@tsbep.texas.gov&gt;

I would be very grateful if the wording was changed from LPC-intern to LPC-associate. I am currently obtaining licensure and would like the opportunity to be seen as more professional and in line with my actual expertise. I feel as though I have to thoroughly explain I am no longer a student and am licensed, but currently have a supervisor to oversee my 3000 hours.

Please honor the name change. Thank you.  
Bailey Hagler

Sent from my iPhone

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Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

## Comments on Propsed TSBEPC Rule Changes

1 message

Casey Lunn &lt;clunn@briarwoodschool.org&gt;

Wed, Aug 12, 2020 at 10:28 AM

To: Open.Records@tsbep.texas.gov

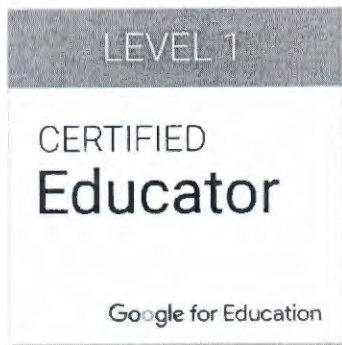
Hello,

My name is Casey Lunn and I am writing as a Licensed Professional Counselor - Intern to comment on the proposed TSBEPC rule changes. My comments are as follows:

- 681.2 Definitions:
  - (16) Licensee: I **strongly support** the change from LPC-Intern to LPCAssociate. The new title more accurately reflects that LPC-Associates have completed their graduate degrees, successfully passed their licensing exams, and are qualified to work directly with clients.
  - (19) Recognized Religious Practitioner: I **strongly disagree** with removing this rule. This definition, or a similar definition, was retained in the proposed TSBEMFT and TSBEPC rules. Given that a goal of BHEC is consistency across the Boards, there is no reason to remove this rule. I also believe strongly that this rule protects the public and reduces the chance for confusion between licensed mental health professionals and religious practitioners.
- 681.13 Impartiality and Non Discrimination:
  - I **strongly disagree** with removing this rule. It is necessary for the Board to make it clear to licensees and the public that the TSBEPC is explicitly prohibited from considering age, race, religion, ethnicity, sex, disability, national origin or genetic information when making decisions. The argument that other statutes include prohibitions against discrimination should not prevent this rule from being included. There is no harm in retaining this rule, which could provide the benefit of maintaining transparency in the operations of the Board.
- 681.16 Petition for Adoption of a Rule:
  - I would like to see this rule be **retained**. Although BHEC rules provide for petitions to adopt rules, petitions for rules specifically related to licensing standards, scope of practice, and penalty matrices for LPCs should be submitted directly to the Board because those are areas in which the Board has exclusive authority. These petitions should **not** be vetted first by BHEC but considered directly by the independent licensing board.

Best,

Ms. Casey Lunn, MS, LPC-I  
 Lower School Counselor  
 The Briarwood School  
[www.briarwoodschool.org](http://www.briarwoodschool.org)  
 281.493.1070 ext. 122



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Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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## Rule Changes of TSBEP

1 message

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**Dennette Gardner** <dennette.gardner@gmail.com>

Wed, Aug 12, 2020 at 11:02 AM

To: Open.Records@tsbep.texas.gov

Cc: Jan Friese &lt;jan@txca.org&gt;, Melanie Schwindt45 &lt;melanie.schwindt45@gmail.com&gt;, Dalton Hill &lt;dahill@mail.umhb.edu&gt;, Tonya Wright-Hamilton &lt;tonyawright2009@hotmail.com&gt;

Dear Sir/Madam:

As a member of the Texas Counseling Association, and a practicing LPC-S with interns under my supervision, I would like to make the following comments on your proposed rule changes at TSBEP:

### 681.2 Definitions:

(16) Licensee: I and my interns strongly support and commend the Board for changing LPC-Intern to LPCAssociate. This change more accurately reflects that LPC-Associates have completed their graduate degrees, successfully passed their licensing exams, and are qualified to work directly with clients.

(19) Recognized Religious Practitioner: I disagree with removing this rule. This definition provides detail on the criteria for exemption from licensure as a "recognized religious practitioner." It is important that this distinction remains.

• 681.13 Impartiality and Non Discrimination: **I strongly disagree with removing this rule.** Inclusion of this rule makes it clear to licensees and the public that the TSBEP is explicitly prohibited from considering age, race, religion, ethnicity, sex, disability, national origin or genetic information when making decisions.

• 681.16 Petition for Adoption of a Rule: I recommend that this rule be retained. These petitions should not be vetted first by BHEC but **considered directly by the independent licensing board**

• 681.202. Relevant Factors: I recommend that this rule be retained as it provides clarity in the process of sanctioning licensees for rule violations.

Respectfully,

G. Dennette Gardner, MS, LPC-S, CCH  
Positive Psychology Speaker  
www.gardnercounseling.com

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Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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**Proposed Rule Change from LPC-Intern to LPC-Associate**

1 message

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**Natika Johnson** <natikajohnson@gmail.com>  
To: Open.Records@tsbep.texas.gov

Wed, Aug 12, 2020 at 11:04 AM

Good morning,

I'm writing to advocate for the rule change from LPC-Intern to LPC-Associate. As a recent graduate (8/5/2020), it's important for me and my colleagues to be able to successfully obtain employment without having to explain that we are indeed licensed professionals, not graduate students. There is such a negative connotation behind the use of the word "intern" in professional arenas. It suggests that we're incompetent to practice counseling professionally and oftentimes frowned upon. I personally know LPC's who are now fully licensed who constantly had to explain to hiring managers, clients, and the community exactly what it meant to be a "LPC-Intern". I'm told that it became exhausting and frustrating to constantly have to prove oneself. Additionally, if we are to continue striving to successfully level the playing field for mental health professionals, newly licensed LPCs' titles should be synonymous with our counterparts in Marriage and Family Therapy. For all of these reasons, I wholeheartedly support the rule change from LPC-Intern to LPC-Associate. Thank you for your time and attention.

Sincerely,

*Natika T. Johnson, MS, M.Ed., LCDC**"Live life as if everything is rigged in your favor." ~ Rumi ~*





Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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**re: Comment**

1 message

**Susan A Adams** <drsadams@centurylink.net>

Wed, Aug 12, 2020 at 4:23 PM

To: Open.Records@tsbep.texas.gov

I think it is an excellent idea to change LPC-Intern to LPC-Associate. Many states are already using this designation of LPC-Associate. Also it will help prepare the future transition to a professional identity - which hopefully will lead to reciprocity across states. Ours is a transitory population and reciprocity would assist with creating a professional identity that is recognizable across state lines.

Dr. Susan Adams  
Professor  
Dept of Behavioral Sciences and Counselor Education  
Liberty University - Online



Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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**In Favor of Title Change to Associate**1 message

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**Dane Brinsko** <d\_brinsko@earthlink.net>

Thu, Aug 13, 2020 at 7:18 AM

To: Open.Records@tsbep.texas.gov

I am in favor of the change from LPC Intern to LPC Associate. It better describes our position as postgraduates while allowing for proper differentiation between LPCs that are fully accredited. Please allow this change in the rule revisions.

Dane Brinsko

LPC-Intern Supervised by Dr. Darline Hunter, LPC-S



Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

---

**LPC Rule Revisios**

1 message

**Debbie Seeger** <debbieseeger@gmail.com>

Thu, Aug 13, 2020 at 9:01 AM

To: Open.Records@tsbep.texas.gov

Greetings,

I am writing to support the change of LPC-Intern to LPC-Associate. This change will add clarity to the titles by minimizing confusion between pre-graduate interns and post-graduate interns. LPC-Associate is a better description as many people associate internships with students still in school.

Thank you for your consideration.

Debbie Seeger





Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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**Proposed Changes to Title 22 TAC Chapter 681**

1 message

**Jesusa Jasso** <jesusajasso@yahoo.com>

Thu, Aug 13, 2020 at 2:50 PM

To: "Open.Records@tsbep.texas.gov" &lt;open.records@tsbep.texas.gov&gt;

Greetings,

Overall, the proposed rule changes align with the legislative intent of HB 1501 (86R) and the transfer of administrative duties from TSBEPC to the newly created Texas Behavioral Health Executive Council (BHEC). Given that BHEC is a new and innovative model, it is important that TSBEPC retain in rule its essential functions. The following comments are submitted with that intent.

- 681.2 Definitions: o (16) Licensee: TCA strongly supports and commends the Board for changing LPC-Intern to LPCAssociate. This change more accurately reflects that LPC-Associates have completed their graduate degrees, successfully passed their licensing exams, and are qualified to work directly with clients. o (19) Recognized Religious Practitioner: TCA disagrees with removing this rule. This definition provides detail on the criteria for exemption from licensure as a "recognized religious practitioner." The requirement that these individuals be affiliated with a legally recognized religious organization is an important distinction to protect the public. This definition, or a similar definition, was retained in the proposed TSBEMFT and TSBEP rules. Given that a goal of BHEC is consistency across the Boards, there is no reason to remove this rule.

- 681.13 Impartiality and Non Discrimination: o TCA strongly disagrees with removing this rule. While many of the deleted rules are now included in the rules governing BHEC, a rule explicitly prohibiting discrimination by the licensing boards is NOT included in the BHEC rules. Inclusion of this rule makes it clear to licensees and the public that the TSBEPC is explicitly prohibited from considering age, race, religion, ethnicity, sex, disability, national origin, or genetic information when making decisions. The argument that prohibitions against discrimination may be found in other statutes does not preclude the inclusion of this rule. Many rules reflect language that is included in the statute. There is no harm in retaining this rule and could provide the benefit of maintaining transparency in the operations of the Board.

- 681.16 Petition for Adoption of a Rule: o TCA recommends that this rule be retained. Although BHEC rules provide for petitions to adopt rules, TCA feels strongly that petitions for rules specifically related to licensing standards, the scope of practice, and penalty matrices for LPCs should be submitted directly to the Board because those are areas in which the Board has exclusive authority. These petitions should not be vetted first by BHEC but considered directly by the independent licensing board.

- 681.202. Relevant Factors: o TCA recommends that this rule be retained as it provides clarity in the process of sanctioning licensees for rule violations. TCA recognizes that BHEC and not the licensing boards will manage the complaint process. We do not agree that change in process merits the removal of this rule. It both benefits licensees and the public by setting forth the considerations in the review of complaints and imposing sanctions. If this rule is not retained, TCA strongly recommends that this information be readily available on the Complaints section of the BHEC website.

Thank you for your attention to this matter.

Respectfully,

Jesusa E. Jasso, LPC





Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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**Proposed Changes to Title 22 TAC Chapter 681**

1 message

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**Yolande Ford** <yolande.ford.lpc@gmail.com>  
To: Open.Records@tsbep.texas.gov

Fri, Aug 14, 2020 at 12:43 PM

681.13 Impartiality and Non Discrimination: A rule explicitly prohibiting discrimination by the licensing boards is NOT included in the BHEC rules. Inclusion of this rule makes it clear to licensees and the public that the TSBEPC is explicitly prohibited from considering age, race, religion, ethnicity, sex, disability, national origin or genetic information when making decisions.

**Yolande Ford, MDiv, MA, LPC, CFTP**





Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

**[TAPA] Letter to BHEC regarding Opposition to Proposed Rule**

1 message

**Betty Dawson** <bedawson@swbell.net>

Sat, Aug 15, 2020 at 1:33 AM

Reply-To: Betty Dawson &lt;bedawson@swbell.net&gt;

To: "Open.Records@tsbep.texas.gov" &lt;Open.Records@tsbep.texas.gov&gt;

Hello, Ms. Skiff,

I hope you and yours are well and persevering.

I am attaching a letter to BHEC stating TAPA's opposition to proposed changes to LPC rule **22 TAC §681.2 (18)** which appeared in the Texas Register on July 17, 2020.

Please verify your receipt of this letter.

Many Thanks!

Betty

~~~~~  
Betty Dawson, MA, LPA with Ind. Practice, Secretary  
TX Association of Psychological Associates  
PO Box 601374, Dallas, TX 75360  
txapa@att.net • www.txapa.net

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cell 214.763.0446  
bedawson@swbell.net  
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 **Letter-LPC Intern Rule Change-Aug2020.pdf**  
118K

# TAPA

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## Texas Association of Psychological Associates

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P.O. Box 601374, Dallas, TX 75360

txapa@att.net • www.txapa.net

14 August 2020

To: Members of the Behavioral Health Executive Council

**Re: Opposition to Proposed Rule: 22 TAC §681.2 (18)** “LPC Associate [Intern]--Licensed Professional Counselor Associate [Intern]. A person who holds an LPC Associate [Intern] license to practice counseling only under a Council-approved [board-approved-] supervisor and not as an independent practitioner.”

The Texas Association of Psychological Associates opposes the proposed change to the title from “Licensed Professional Counselor Intern” to “Licensed Professional Counselor Associate.” Not only will it lead to misunderstanding of the professional status of LPC Interns themselves, but will also affect the public’s understanding of the credential “Licensed Psychological Associate” and impact the consideration of Licensed Psychological Associates for employment.

The common dictionary definition of “Intern” is “an advanced student or graduate usually in a professional field (such as medicine or teaching) gaining supervised practical experience (as in a hospital or classroom).”<sup>\*</sup> The title “Licensed Professional Counselor Intern” seems descriptive of the status of these licensees who are “gaining supervised practical experience” prior to licensure as a Licensed Professional Counselor with the right to independent practice.

The common dictionary definition of “Associate” is “to join as a partner, friend, or companion” or “an entry-level member (as of a learned society, professional organization, or profession)” or “closely connected (as in function or office) with another: sharing in responsibility or authority.”<sup>\*</sup> None of these imply a trainee status.

We realize that Licensed Marriage and Family Therapists who are “gaining supervised practical experience” prior to licensure as a Licensed Marriage and Family Therapist with



status. We believe that the public understands the term “intern” and has the right to know and understand the professional status of Licensed Professional Counselor Interns with whom they may come in contact.

On the other hand, Licensed Psychological Associates have been called “Associates” for many years. They are not Interns. Once qualified Licensed Psychological Associates have earned the right to independent practice, they have the same professional status as Licensed Professional Counselors or Licensed Marriage and Family Therapists, yet their title remains Licensed Psychological Associate.

Not all potential employers, third party payors, and the public at large will go to the trouble to understand the differences in these titles. They may make assumptions and inferences about the qualifications of Licensed Psychological Associates which are not accurate and which may limit their opportunities for employment and impact their ability to compete in the marketplace. The very different usage of the term “Associate” in the proposed meaning as an “Intern” and in the professional license, Licensed Psychological Associate, will only lead to misunderstanding to the detriment of the employment opportunities for Licensed Psychological Associates. We are asking only for equal opportunities and a level playing field.

Therefore, we oppose passage of **Proposed Rule**: “(18) LPC Associate [~~Intern~~]-Licensed Professional Counselor Associate [~~Intern~~]. A person who holds an LPC Associate [~~Intern~~] license to practice counseling only under a Council-approved [~~board-approved~~] supervisor and not as an independent practitioner.”

Thank you for your consideration of this matter and for your understanding of our concern.

\*Merriam-Webster Online Dictionary. <https://www.merriam-webster.com/dictionary/>



Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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**LPC-Intern to LPC-Associate**

1 message

**Monica Gutierrez** <monicagz28@hotmail.com>

Sun, Aug 16, 2020 at 11:09 PM

To: "open.records@tsbep.texas.gov" &lt;open.records@tsbep.texas.gov&gt;

To Whom It May Concern:

I am writing to express my full support for the title change from LPC-Intern to LPC-Associate. As an LPC-Intern, I am currently limited to the amount of paid opportunities I can apply for. Prior to the United States being infected by COVID-19, I had a part-time job that would have provided the means to focus on my direct counseling hours towards licensure, and afford the costs of weekly supervision. However, I am currently unemployed due to the industry I was working for.

Becoming an LPC-Associate would allow me to hone in on my specialties, target the population who I would best serve, and receive payment and utilize that for basic necessities (rent, bills) and professional development (supervision, advanced training). I am looking forward to seeing this monumental change in the field, which will certainly permit others and myself, to thrive and survive.

Warmest regards,

**Monica Gutierrez, M.A., NCC, LPC-Intern**  
**Supervised by John V. Jones, Jr., Ph.D., LPC-S**





Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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**Comments on LPC Rule Revision**

1 message

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**Elizabeth Dossman** <elizabeth.dossman@gmail.com>  
To: Open.Records@tsbep.texas.gov

Mon, Aug 17, 2020 at 10:07 AM

- 681.2 Definitions: o (16) Licensee: I support the change from LPC Intern to LPC Associate.

(19) Recognized Religious Practitioner: I disagree with removing this rule. This definition provides detail on the criteria for exemption from licensure as a "recognized religious practitioner." The requirement that these individuals be affiliated with a legally recognized religious organization is an important distinction to protect the public. This definition, or a similar definition, was retained in the proposed TSBEMFT and TSBEP rules. Given that a goal of BHEC is consistency across the Boards, there is no reason to remove this rule.

- 681.13 Impartiality and Non Discrimination: o I strongly disagree with removing this rule. While many of the deleted rules are now included in the rules governing BHEC, a rule explicitly prohibiting discrimination by the licensing boards is NOT included in the BHEC rules. Inclusion of this rule makes it clear to licensees and the public that the TSBEP is explicitly prohibited from considering age, race, religion, ethnicity, sex, disability, national origin or genetic information when making decisions. The argument that prohibitions against discrimination may be found in other statutes does not preclude inclusion of this rule. Many rules reflect language that is included in statute. There is no harm in retaining this rule and could provide the benefit of maintaining transparency in the operations of the Board. •

It is imperative that protection for the LGBTQ community also be added! Counselors are to lead by example and not having added protections for the LGBTQ community diminishes that ability.

- 681.16 Petition for Adoption of a Rule: o I recommend that this rule be retained.

--  
Elizabeth Dossman  
Licensed Professional Counselor-Supervisor  
www.ElizabethDossman.com  
512.968.6007

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Brenda Skiff &lt;brenda@tsbep.state.tx.us&gt;

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**Comments on Chapter 681 proposed rule changes from the American Art Therapy Association**

1 message

**Clara Keane** <ckeane@arttherapy.org>

Mon, Aug 17, 2020 at 4:51 PM

To: "Open.Records@tsbep.texas.gov" &lt;Open.Records@tsbep.texas.gov&gt;

Cc: margaret carlock &lt;margaretcarrow@gmail.com&gt;, Cynthia Woodruff &lt;cwoodruff@arttherapy.org&gt;

Dear Ms. Skiff:

Please see attached a letter from the President of the American Art Therapy Association Dr. Margaret Carlock Russo offering comments on the proposed rule changes to Chapter 681 of Title 22 of the Texas Administrative Code on behalf of the association.

Thank you for your consideration, and please let me know if there is any additional information we can provide.

Sincerely,

**Clara Keane***Manager, Advocacy and Public Affairs***American Art Therapy Association**

4875 Eisenhower Avenue, Suite 240 | Alexandria, VA 22304

ckeane@arttherapy.org | www.arttherapy.org

Direct: (703) 548-5862 | Main: (888) 290-0878

**American Art Therapy Association Comment Letter re. Texas Chapter 681 ru....pdf**

538K





August 17, 2020

Brenda Skiff, Public Relations Officer  
Texas State Board of Examiners of Psychologists  
333 Guadalupe, Suite 2-450  
Austin, Texas 78701

Dear Ms. Skiff;

As President of the American Art Therapy Association, I am writing to express our association's concerns regarding changes recommended by the Texas Board of Examiners of Professional Counselors to Chapter 681 of Title 22 of the Texas Administrative Code to implement recently enacted legislation that combines administration of professional counselor licenses under a new Texas Behavioral Health Executive Council (Executive Council). Our Texas art therapist members are licensed as professional counselors with an Art Therapy Specialty Designation described in section 681.73 of the Texas Administrative Code.

Our association respectfully requests that the Executive Council consider the following four changes to the proposed rules concerning Chapter 681 as published in the *Texas Register* [45 TexReg 4876]:

1. Include art therapy in the definition of "counseling-related field" in §681.2(9).

Section 681.2(9) fails to include art therapy in defining "counseling-related field" for purposes of other sections of the rules defining requirements for professional counseling licenses. However, other sections of the proposed rules define art therapy as a separate human services profession that involves comparable methods and objectives as professional counseling [§681.2(3)]; identify art therapy in defining the term "license" as administered under the Chapter [§681.2(15)]; and create a separate application process for persons holding art therapy master's degrees who seek LPC licenses with the art therapy specialty designation [§681.73].

Later sections of the proposed rules [§681.82 and §681.83] define the academic qualifications for persons seeking licensure with graduate degrees in a counseling-related field, and the wording of §681.73(b) specifies that the Executive Council will accept courses from certain approved art therapy programs as satisfying the academic requirements set out in §681.82. To provide for consistency among these sections of the proposed rules, and provide greater clarity in how the rules apply to applicants with art therapy program degrees, we recommend that art therapy be included in §681.2(9) as a "counseling-related field."



2. Update the academic requirement for Art Therapy Specialty Designation in §681.73(b) to include program accreditation by the Commission on Accreditation of Allied Health Education Programs.

The art therapy profession is undergoing a five-year transition in which art therapy master's degree programs previously approved by our Association's Education Program Approval Board will convert to independent program accreditation under equivalent academic and practicum/internship standards by the Commission on Accreditation of Allied Health Education Programs (CAAHEP). To date, fourteen AATA-approved and new art therapy Master's degree programs have achieved CAAHEP accreditation, with the remaining AATA-approved programs expected to obtain CAAHEP accreditation before the end of 2021. A number of dual counseling-art therapy programs also will have accreditation by both CAAHEP and the Commission on Accredited of Counseling and Related Programs (CACREP). The Executive Council can expect to receive applications from art therapists holding graduate degrees from AATA-approved and CAAHEP-accredited programs over the coming years.

We urge the Executive Council to recognize this important change in our profession and to facilitate future licensure by art therapy program graduates by revising §681.73(b) to read as follows: "The Council will accept an individual course from an art therapy program *that was either approved by the American Art Therapy Association or accredited by the Commission on Accreditation of Allied Health Education Programs at the time an applicant's degree was conferred* 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 a course required in §681.83 of this title (relating to Academic Course Content)."

3. Clarify §681.82(c) to provide that substantially equivalent art therapy licenses issued by other U.S. jurisdictions may meet the academic requirements for LPC licenses.

Section 681.82(c) of the proposed rules seeks to facilitate licensure by endorsement for applicants holding "full LPC" licenses issued by other U.S. jurisdictions, stating that licenses issued by other states that are in good standing for at least two years will be "deemed to have met all academic requirements." We are concerned that under the language of this subsection, only a graduate of an art therapy program who holds an LPC license issued by another state would be deemed to have met all academic requirements, while a graduate of a comparable art therapy program, or a dual counseling-art therapy program, who holds a state art therapy license would not. This would appear to conflict with language in §681.73(b) that authorizes the Executive Council to accept courses from an approved art therapy program as satisfying the education requirements if not less than 75% of the course content is substantially equivalent to the course content required in §681.83.

We recommend amending §681.82(c) to address this inconsistency by adding language to clarify that a professional art therapy license in good standing issued by another U.S. jurisdiction will also be deemed as having met all academic requirements if the state



license requires a graduate degree from an approved/accredited art therapy program with course and practicum requirements that the Executive Council determines are substantially equivalent to academic requirements in §681.82 or, alternatively, if the required graduate degree from an approved/accredited art therapy program includes courses that meet the requirements of §681.73(b).

4. Clarify how the additional coursework requirement in §681.83(c) will apply to applicants with master's degrees from approved/accredited art therapy programs.

Section 681.83(b) of the proposed rules require applicants holding degrees in a counseling-related field to have completed at least one course in each of ten core content areas, all of which correspond to the core content areas required for degrees from approved/accredited art therapy master's programs. Section 681.83(c) also requires that all remaining courses required to meet a program's 60 graduate semester hour requirement (or earlier 48-hour requirement) "must be courses related primarily to professional counseling." Under the wording of subsection 681.83(c), it would be extremely difficult for an applicant with a degree from an art therapy master's degree program to meet the academic requirements for licensure without substantial additional coursework. Art therapy requires specialized training in the application of art therapy principles and methods in assessing and treating cognitive, behavioral, and developmental conditions or disorders that may not be considered "primarily related to professional counseling." The wording of §681.83(c) also appears to conflict with the requirement in subsection 681.73(b) that authorizes the Executive Council to accept courses from an approved art therapy program as satisfying the education requirements if not less than 75% of the course content is substantially equivalent to the course content required in §681.83.

Our association urges the Executive Council to revise subsection 681.83(c) to clarify that the additional coursework requirement in that subsection would not apply to applicants holding graduate degrees from approved/accredited degree programs in art therapy.

Thank you for the opportunity to submit comments on the proposed rule changes to Chapter 681. Should the Executive Council require additional information about any of the changes we are recommending, do not hesitate to contact me or Clara Keane in our association's national office ([ckeane@arttherapy.org](mailto:ckeane@arttherapy.org)).

Sincerely,



Margaret Carlock Russo, EdD, LCAT(NY), ATR-BC, ATCS  
President, American Art Therapy Association  
[margaretcarrow@gmail.com](mailto:margaretcarrow@gmail.com)  
(516) 205-7792

Rule: §681.164. Licensing of Persons with Criminal Convictions.

Action: Proposed New Rule

Comment: The proposed new rule limits an applicant eligibility for a license based on the applicants criminal history. This rule is required by statute for the Board to propose to the Executive Council.

§681.164. Licensing of Persons with Criminal Convictions.

(a) The following felonies and misdemeanors directly relate to the duties and responsibilities of a licensee:

- (1) offenses listed in Article 42A.054 of the Code of Criminal Procedure;
- (2) a sexually violent offense, as defined by Article 62.001 of the Code of Criminal Procedure;
- (3) any felony offense wherein the judgment reflects an affirmative finding regarding the use or exhibition of a deadly weapon;
- (4) any criminal violation of Chapter 503 (Licensed Professional Counselor Act) of the Occupations Code;
- (5) any criminal violation of Chapter 35 (Insurance Fraud) or Chapter 35A (Medicaid Fraud) of the Penal Code;
- (6) any criminal violation involving a federal health care program, including 42 USC Section 1320a-7b (Criminal penalties for acts involving Federal health care programs);
- (7) any offense involving the failure to report abuse or neglect;
- (8) any state or federal offense not otherwise listed herein, committed by a licensee while engaged in the practice of professional counseling;
- (9) any criminal violation of Section 22.041 (abandoning or endangering a child) of the Penal Code;
- (10) any criminal violation of Section 21.15 (invasive visual recording) of the Penal Code;

- (11) any criminal violation of Section 43.26 (possession of child pornography) of the Penal Code;
- (12) any criminal violation of Section 22.04 (injury to a child, elderly individual, or disabled individual) of the Penal Code;
- (13) three or more drug or alcohol related convictions within the last 10 years, evidencing possible addiction that will have an effect on the licensee's ability to provide competent services; and
- (14) any attempt, solicitation, or conspiracy to commit an offense listed herein.

Rule: §681.92. Experience Requirements (Internship)

Action: Proposed Repeal

Comment: The proposed repeal is required because this rule is being recodified in Subchapter C with changes made to comply with HB 1501.

~~§681.92 Experience Requirements [(Internship)]~~

~~(a) All applicants for LPC licensure must complete supervised experience acceptable to the board of 3,000 clock hours under a board-approved supervisor.~~

~~(1) All internships physically occurring in Texas must be completed under the supervision of a 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 intern. The applicant must provide documentation acceptable to the 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 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 Intern must receive direct supervision consisting of a minimum of four (4) hours per month of supervision in individual (up to two Interns) or group (three or more) settings while the intern is engaged in counseling unless an extended leave of one month or more is approved in writing by the board-approved supervisor. No more than 50% of the total hours of supervision may be received in group supervision.~~

~~(f) An LPC Intern may have up to two (2) supervisors at one time.~~

Rule: §681.92 Experience Requirements.

Action: Proposed New Rule

Comment: The proposed new rule lists the experience requirements for licensure. This rule is required by statute for the Board to propose to the Executive Council.

§681.92. Experience Requirements

- (a) All applicants for LPC licensure must complete supervised experience acceptable to the Council of 3,000 clock-hours under a Council-approved supervisor.

  - (1) All internships physically occurring in Texas must be completed under the supervision of a Council-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. The applicant must provide documentation acceptable to the Council 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 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 must receive direct supervision consisting of a minimum of four (4) hours per month of supervision in individual (up to two Associates or group (three or more) settings while the Associate is engaged in counseling unless an extended leave of one month or more is approved in writing by the Council approved supervisor. No more than 50% of the total hours of supervision may be received in group supervision.

(f) An LPC Associate may have up to two (2) supervisors at one time.

### BHEC Fee Review Advisory Committee Members

BHEC Council Member Committee Volunteers	Jennifer Smothermon, M.A. [REDACTED]
	George F. Francis, IV, M.B.A. [REDACTED]
	John K. Bielamowicz [REDACTED]
	Tim Brown, M.S.W. [REDACTED]
Texas Association of Marriage and Family Therapists	
Texas Counseling Association	Katherine Bacon [REDACTED]
Christian Counselors of Texas	Todd Linder, M.Ed., LPC-S [REDACTED]
Texas Psychological Association	Jessica Magee [REDACTED]
Texas Association of Psychological Associates	
Texas Association of School Psychologists	
National Association of Social Workers – Texas Chapter	Will Francis ([REDACTED])
Texas Society for Clinical Social Work	Kathy T. Rider [REDACTED]