

Texas State Board of Examiners of Marriage and Family Therapists

BOARD MEETING BY VIDEOCONFERENCE

Friday, December 11, 2020, 8:30 a.m.
333 Guadalupe, Suite 3-900
Austin, Texas 78701

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, this meeting of the Texas State Board of Examiners of Marriage and Family Therapists (Board) will be held by videoconference, as authorized under Texas Government Code §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 with two-way communication by entering the URL address [HTTPS://US02WEB.ZOOM.US/J/83284271254](https://us02web.zoom.us/j/83284271254) into their web browser or by calling

+1 346 248 7799 US (Houston)

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and entering meeting ID: 832 8427 1254.

An electronic copy of the agenda and any meeting materials will be available at <https://www.bhec.texas.gov/texas-state-board-of-examiners-of-marriage-and-family-therapists/important-dates/index.html> before the meeting. A recording of the meeting will be available after the meeting is adjourned. To obtain a recording, please email your request to open.records@bhec.texas.gov.

FOR THOSE WHO WISH TO PROVIDE PUBLIC COMMENT: When the public comment agenda item is announced, if you have joined the meeting by computer, please use the “raise hand” feature to indicate you would like to provide a public comment. Those who raise a hand will then be unmuted to give public comment. After all those who raised a hand have been given an opportunity to provide public comment, staff will call upon and unmute those who have joined the meeting by telephone. When providing 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 directed to executive leadership or legal staff, please send an email to general@bhec.texas.gov before the meeting. Any written public comment received is submitted to the Board members for their consideration during the meeting, but is not read aloud.

In the event Governor Greg Abbott's March 13, 2020, disaster declaration is not renewed or expires prior to December 11, 2020, then pursuant to Texas Government Code, §551.127, notice is hereby given that one or more Board members may appear at the scheduled meeting via videoconference, but the presiding officer will be physically present at the above-noticed location. This location will be open to the public only in the event the March 13 disaster declaration is not renewed.

Please note that the Board 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 Board at least 5 working days before the meeting date. PHONE: (512) 305-7700, FAX: (512) 305-7701, E-MAIL: general@bhec.texas.gov, TTY/RELAY TEXAS: 711 or 1- 800-RELAY TX.

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

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

AGENDA

(Merchant, Bartee, Bateman, Francis, Husband-Thompson, Parrish, Scoma, Smith, Stoglin)

1. Call meeting to order.
2. Approval of minutes of the October 16, 2020, videoconference Board meeting.
3. Discussion and possible action to elect a Vice-Chair of the Texas State Board of Examiners of Marriage and Family Therapists pursuant to 22 Texas Administrative Code (22 TAC) §801.11, The Board.
4. Discussion and possible action to re-elect or replace a public member delegate to the Texas Behavioral Health Executive Council per Texas Occupations Code §507.051, George Francis, IV, whose term as delegate expires February 1, 2021 per 22 TAC §881.4, regarding Council Member Terms.
5. Discussion and possible action to re-elect or replace a professional member delegate to the Texas Behavioral Health Executive Council per Texas Occupations Code §507.051, Kenneth Bateman, EdD, LPC-S, LMFT-S, whose term as board member expires February 1, 2021 per Texas Occupations Code §502.054, in case Dr. Bateman is not reappointed
6. Discussion and possible action regarding rules:
 - A. Discussion and possible action regarding public comment on proposed rule (published in the October 23 *Texas Register* [45 TexReg 7515] and recommendations to the Texas Behavioral Health Executive Council (Executive Council) concerning adoption of 22 TAC
 - i. §801.204 concerning Licensing of Military Service Members, Military Veterans, and Military Spouses and
 - ii. §801.305 concerning Schedule of Sanctions.
 - B. Discussion and possible action regarding public comment on proposed rule (published in the October 2 *Texas Register* [45 TexReg 6956] and recommendations to the Executive Council concerning adoption of 22 TAC §801.206 Licensing of Persons with Criminal Convictions.
7. Discussion and possible action committee reports per 22 TAC §801.11(f):
 - A. Discussion and possible action regarding report from Licensing Standards Committee
 - B. Discussion and possible action regarding report from Ethics Committee
 - C. Discussion and possible action regarding report from Professional Development Committee
 - D. Discussion and possible action regarding report from Rules Committee
8. Report from the Board Chair concerning current challenges and accomplishments; lawsuits; interaction with stakeholders, state officials, and staff; committee appointments and functions; workload of Board members; conferences; and general information regarding the routine functioning of the Board.
9. Report from the Board's Delegates to the Texas Behavioral Health Executive Council regarding the activities of the Executive Council.
10. Report from the Board Administrator concerning operations of Texas Behavioral Health Executive Council, including program operations, organization, and staffing; workload processing and statistical information; status of rulemaking; customer service accomplishments, inquiries, and challenges; media, legislative, and stakeholder contacts and concerns; special projects assigned to executive director or staff; and general information regarding the routine functioning of the program.

11. Discussion and possible action regarding future priorities and activities of the Board.
12. Public Comment.
13. Announcements and comments not requiring Board action, such as statements regarding conferences and other recent or upcoming events.
14. Adjournment.

Action may be taken on any of the above items. The Board reserves the right to go into executive session on any agenda item as authorized by Texas Government Code, Chapter 551. Agenda items may be taken in any order at the discretion of the Chair. An individual who wishes to speak on an issue that falls under the Board's jurisdiction shall be heard during the Public Comment agenda item. The Chair may establish and announce limitations on speakers, including time limits and when speakers may address the Board. The limitations, if any, may vary from meeting to meeting.

This meeting is open to the public. No reservations are required and there is no cost to attend this meeting.

CONTACT: Sarah Faszholz, Board Administrator
Texas State Board of Examiners of Marriage and Family Therapists
general@bhec.texas.gov

Proposed rules published in October 23, 2020 *Texas Register* [[45 TexReg 7515](#)]

§801.204 Licensing of Military Service Members, Military Veterans, and Military Spouses

(a) An applicant for licensure under this section must comply with Council §882.60 of this title (relating to Special Provisions Applying to Military Service Members, Veterans, and Spouses).

(b) Licensed by another United States jurisdiction.

(1) If an applicant has been licensed as an LMFT in another United States jurisdiction for the two years immediately preceding the date the application is received, and has no disciplinary history, the academic (including the internship) and experience requirements shall be considered met.

(2) If an applicant has been licensed as an LMFT in another United States jurisdiction for less than two years immediately preceding the date the application is received, and has no disciplinary history, staff may grant one month of credit for every two months of independent marriage and family therapy practice toward any deficit in the academic internship or experience requirements.

(c) Upon request, an applicant must provide acceptable proof of current licensure issued by another jurisdiction. Upon request, the applicant must provide proof that the licensing requirements of that jurisdiction are substantially equivalent to the licensing requirements of this state.

(d) For an application for a license submitted by a verified military service member or military veteran, the applicant will receive credit towards any licensing or apprenticeship requirements, except an examination requirement, for verified military service, training, or education relevant to the occupation, unless he or she holds a restricted license issued by another jurisdiction or if he or she has a disqualifying criminal history as described by the Act, the Council Act, or Council rules.

Public Comment

From: Jodie Elder [redacted]

Sent: Thursday, November 5, 2020 11:17 PM

Subject: Comments on proposed rules in Texas Register Oct 23

November 5, 2020

Brenda Skiff, Executive Assistant
Texas Behavioral Health Executive Council
333 Guadalupe, Ste 3-900
Austin, TX 78701

Re: Comments on Proposed Rules Published in the October 23, 2020 *Texas Register*

Dear Mrs. Skiff and members of the Texas State Board of Examiners of Marriage and Family Therapists:

Thank you for the opportunity to comment on the proposed rule revisions to the Texas State Board of Examiners of Marriage and Family Therapists.

Per §801.204(b)(1), I support the requirement that applicants must be licensed for the two years immediately preceding the date of application in order for academic and experience requirements to be considered met. I am hopeful that this stipulation will ensure that licensees have recent, relevant clinical experience before coming to practice with Texas citizens.

Per §801.204(c), I appreciate that the board has defined “substantially equivalent” as either meeting or exceeding Texas requirements, as I feel this definition ensures that only fully competent clinicians are allowed to practice in Texas.

Texas State Board of Examiners of Marriage and Family Therapists

December 11, 2020 Board Meeting –

§801.204 Licensing of Military Service Members, Military Veterans, and Military Spouses

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Thank you again for your hard work and for the opportunity to provide comments. Please let me know if you have any questions or require additional information.

Sincerely,

Jodie Elder, PhD, LPC-S, LMFT

Texas State Board of Examiners of Marriage and Family Therapists

December 11, 2020 Board Meeting –

§801.305 Schedule of Sanctions

Proposed rules published in October 23, 2020 *Texas Register* [[45 TexReg 7515](#)]

Note: no tables or graphics were included in the PDF version.

§801.305 Schedule of Sanctions

The following standard sanctions shall apply to violations of Texas Occupations Code, Chapter 502 and 22 Texas Administrative Code, Part 35.

Attached Graphic

Figure: 22 TAC §801.305

Rule	Action
801.43(b) Report alleged violations or misrepresentation	Level 5 Reprimand [Warning Letter]
801.43(c) Identify license, status, or other restriction	Level 5 Reprimand [Warning Letter]
801.43(d) Make false statement	Level 5 Reprimand
801.43(g) Make reasonable effort to prevent other's false statement	Level 5 Reprimand [Warning Letter]
801.44(a) Provide services only in the context of a professional relationship	Level 5 Reprimand
801.44(b) Fail to provide written information	Level 5 Reprimand
801.44(c) Fail to obtain appropriate consent or custody order	Level 5 Reprimand
801.44(d) Fail to provide written information regarding confidentiality	Level 5 Reprimand
801.44(e) Refer for pay	Level 3 Suspension [Administrative Penalty]
801.44(f) Exploit trust	Level 4 Probated Suspension
801.44(g) Act to meet personal needs	Level 4 Probated Suspension
801.44(h) Provide services to family, friends, educational or business associates, or others	Level 5 Reprimand
801.44(i) Maintain professional boundaries with clients and former clients	Level 5 Reprimand
801.44(k) Protect individual from harm resulting from group interaction	Warning Letter
801.44(l) Avoid non-therapeutic relationship with clients and former clients	Conditional Letter of Agreement
801.44(m) Bill only for services actually rendered or as agreed in writing	Level 5 Reprimand
801.44(n) End professional relationship when client is not benefitting	Level 4 Reprimand [Probated Suspension]
801.44(n) Provide written referral and facilitate transfer to appropriate care	Conditional Letter of Agreement
801.44(o) Technology-assisted services, provide license number and council's contact information	Level 5 Reprimand [Warning Letter]
801.44(p) Provided services within competency and professional standards	Level 4 Probated Suspension
801.44(q) Base services on client assessment, evaluation, or diagnosis	Level 4 Probated Suspension
801.44(s) Promote or encourage illegal use of alcohol or drugs	Level 1 Revocation
801.44(t) Provide services to client served by another	Level 5 Reprimand
801.44(u) Aid or abet or fail to report unlicensed practice	Level 2/3 Suspension

Texas State Board of Examiners of Marriage and Family Therapists

December 11, 2020 Board Meeting –

§801.305 Schedule of Sanctions

801.44(v) Enter a non-professional relationship with a client's family member or any person who has a personal or professional relationship with a client	Level 5 Reprimand
801.44(w) Provide services while impaired	Level 2/3 Suspension
801.45(b) Sexual contact with a protected person	Level 1 Revocation
801.45(c) Provide services to a former sexual partner	Level 1 Revocation
801.45(d) Therapeutic deception or sexual exploitation	Level 1 Revocation
801.46(a) Inform clients about testing as part of treatment	Level 5 Reprimand [Warning Letter]
801.46(c) Administer and interpret test with appropriate training, experience	Level 4 Probated Suspension
801.47 Use alcohol or drugs, adversely affecting provision of services	Level 2/3 Suspension
801.48(b) Disclose communication, record, or identity of a client	Level 4 Probated Suspension
801.48(c) Comply with statutes or rules, concerning confidential information	Level 4 Probated Suspension
801.48(d) Report or release information as required by statute	Level 4 Probated Suspension
801.48(d)(4) Report sexual misconduct per TCPRC 81.006	Level 5 Reprimand
801.48(e) Keep accurate records	Level 5 Reprimand [Conditional Letter of Agreement]
801.48(g) Maintain confidentiality in how client records are stored or disposed	Level 4 Probated Suspension
801.48(h) Plan for custody of records	Level 5 Reprimand
801.50 Appropriate use of assumed name	Level 5 Reprimand [Warning Letter]
801.53(a) Advertise with false information	Level 5 Reprimand
801.53(d) Advertisement must state license title	Level 5 Reprimand [Warning Letter]
801.53(e) Ad with confusing membership or certification outside field of therapy	Level 5 Reprimand [Warning Letter]
801.53(f) Advertisement must state provisional license	Level 5 Reprimand [Warning Letter]
801.53(g) Reasonable steps to correct or minimize misuse of license certificate or misrepresentation of licensee's services	Level 5 Reprimand [Warning Letter]
801.55(e) Dual relationship: Provide MFT and parenting coordination services	Level 4 Probated Suspension
801.56(d) Dual relationship: Provide MFT and parenting facilitation services	Level 4 Probated Suspension
801.57(d) Dual relationship: Provide any service and custody evaluation	Level 4 Probated Suspension
801.57(e) Offer expert opinion related to child custody	Level 2/3 Suspension
801.57(f) Failure to inform client and proper informed consent	Level 5 Reprimand
801.57(g) Associate must not conduct child custody or adoption evaluations	Level 4 Probated Suspension
801.58(d) Required training for technology-assisted services	Level 5 Reprimand
801.58(h) Failure to inform client and proper informed consent	Level 5 Reprimand
801.58(i) Meet legal requirements of health information privacy and security	Level 4 Probated Suspension
801.143(b) Supervisor may not be employed by supervisee	Level 5 Reprimand
801.143(c) Supervisor may not be related to supervisee	Level 5 Reprimand
801.143(d) Supervisor must timely process and maintain Associate's file	Level 5 Reprimand [Conditional Letter of Agreement]

Texas State Board of Examiners of Marriage and Family Therapists

December 11, 2020 Board Meeting –

§801.305 Schedule of Sanctions

801.143(e) Supervisor must submit timely written notice when supervision ends	<u>Level 5 Reprimand</u> [Warning Letter]
801.143(f)(1) Supervisor must ensure Associate adheres to all laws and rules	<u>Level 5 Reprimand</u> [Warning Letter]
801.143(f)(2) Supervisor/Associate dual relationship	Level 5 Reprimand
801.143(f)(4) Supervisor must implement Associate's written remediation plan	Level 5 Reprimand
801.143(f)(5) Supervisor must timely submit accurate experience documents	Level 5 Reprimand
801.143(i) Supervisor fails to renew and continues to represent as a supervisor	Level 5 Reprimand
801.143(j) Supervisor with status other than "current, active" or after supervisor status is removed and continues to supervise	Level 4 Probated Suspension
801.143(k) Disciplined supervisor must inform all Associates of council action, refund fees, and assist Associates to find alternate supervision	Level 5 Reprimand
801.143(l) Supervise without being currently approved supervisor	Level 4 Probated Suspension

[Figure 22 TAC §801.305]

Public Comment

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Subject: Comments on proposed rules in Texas Register Oct 23

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Brenda Skiff, Executive Assistant
Texas Behavioral Health Executive Council
333 Guadalupe, Ste 3-900
Austin, TX 78701

Re: Comments on Proposed Rules Published in the October 23, 2020 *Texas Register*

Dear Mrs. Skiff and members of the Texas State Board of Examiners of Marriage and Family Therapists:

Thank you for the opportunity to comment on the proposed rule revisions to the Texas State Board of Examiners of Marriage and Family Therapists.

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Per §801.305, I want to first request that changes to the schedule of sanctions be fully published in the Texas Register in the future. The reference to 801.305 in the proposed rule changes was not a hyperlink to the full schedule, so stakeholders could not see what was being proposed for change. Without this information, stakeholders are therefore not able to provide informed public comment.

Second, as the former Texas Counseling Association's appointed liaison to the TSBEMFT, I am aware that the changes to the Schedule of Sanctions involved removing Conditional Letters of Agreement and Warning Letters. While I understand the rationale behind these changes, I would ask that the board somehow reserve the right to utilize CLAs and Warning Letters if mitigating factors warrant a lesser sanction than those listed in the schedule of sanctions.

Texas State Board of Examiners of Marriage and Family Therapists
December 11, 2020 Board Meeting –
§801.305 Schedule of Sanctions

Thank you again for your hard work and for the opportunity to provide comments. Please let me know if you have any questions or require additional information.

Sincerely,

Jodie Elder, PhD, LPC-S, LMFT

Proposed rules published in October 2, 2020 *Texas Register* [[45 TexReg 6956](#)]

§801.206 Licensing of Persons with Criminal Convictions

The following felonies and misdemeanors directly relate to the duties and responsibilities of a licensee:

- (1) offenses listed in Articles 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 502 (Licensed Marriage and Family Therapist 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 §130a-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 marriage and family therapy;
- (9) any criminal violation of §22.041 (Abandoning or Endangering a Child) of the Penal Code;
- (10) any criminal violation of §21.15 (Invasive Visual Recording) of the Penal Code;
- (11) any criminal violation of §43.26 (Possession of Child Pornography) of the Penal Code;
- (12) any criminal violations of §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.

Public Comment

None received.