

# **Texas State Board of Examiners of Marriage and Family Therapists**

Board Meeting Agenda for  
Friday, July 21, 2023, 1 p.m.

The July 21, 2023 meeting of the Texas State Board of Examiners of Marriage and Family Therapists will be held by videoconference call, as authorized under Texas Government Code section 551.127. One or more board members may appear at the scheduled meeting via videoconference call, but the presiding member will be physically present in **Ballroom A of the Martin University Center (2nd Floor), Texas Wesleyan University, 1201 Wesleyan Street, Fort Worth, Texas 76105**. This location will be open to the public, but seating is limited to first come, first served.

In lieu of attending in person, members of the public are encouraged to access and participate virtually in this meeting by entering the URL address <https://us02web.zoom.us/j/89473435799> into their web browser. Telephone access numbers and additional 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 made available on the Council's YouTube channel after the meeting is adjourned. To obtain a copy of the recording, please contact the Council's public information officer at [Open.Records@bhec.texas.gov](mailto:Open.Records@bhec.texas.gov).

For members of the public wishing to give public comment, once the public comment item is reached on the agenda after the meeting convenes, the presiding officer will allow those who are attending in person to give public comment first and then 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. Please note that public comment is not intended for a discussion or a question-and-answer session with the Board. Additionally, 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 by clicking here: <https://forms.office.com/r/ubXDHjcsia>. Only those written public comments received by 5pm on the last business day before the meeting will be submitted to the board members for their consideration. No written comments received will be read aloud during the meeting.

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 Council at least 5 working days before the meeting date. PHONE: (512) 305-7700, 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, Ch. 551.

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

## **MFT BOARD MEETING AGENDA FOR FRIDAY, JULY 21, 2023, 1 P.M.**

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

1. Call meeting to order.
2. Approval of minutes of the April 14, 2023, videoconference Board meetings.
3. Board review and possible action regarding appeals of application for licensure denials.
4. Board review and possible action regarding agreed orders to be executed by the Board.

5. Board review and possible action regarding contested cases from the State Office of Administrative Hearings (SOAH).
6. Report of agreed orders executed by the Council's Executive Director.
7. Report of cases dismissed by the Council's Executive Director.
8. Status report of quarterly enforcement case activities.
9. Report of compliance with agreed orders.
10. Report from Committee Chairs per Title 22 of the Texas Administrative Code, §801.11(f):
  - A. Report from Ethics Committee Chair Dr. Elder.
  - B. Report from Licensing Standards Committee Chair Dr. Merchant.
  - C. Report from Outreach Committee Chair Dr. Merchant.
  - D. Report from Professional Development Committee Chair Mrs. Husband-Thompson.
  - E. Report from Rules Committee Chair Dr. Bartee.
11. Discussion and possible action regarding recommendations from the June 16, 2023 Rules Committee meeting, including:
  - A. [22 TAC §801.2](#) *Definitions*, adding definition for "independent practice."
  - B. [22 TAC §801.48\(h\)](#) *Record Keeping, Confidentiality, Release of Records, and Required Reporting*, changing "independent" to "private" practice as to when the licensee must establish a plan for the custody and control of the licensee's client mental health records. Staff requested differentiation between "independent" and "private" practice.
  - C. [22 TAC §801.142\(1\)\(A\)\(i\)](#) *Supervised Clinical Experience Requirements and Conditions*, regarding the increase from 500 to 750 hours the maximum number of direct hours provided via technology-assisted services to count toward the 1500 requirement for direct hours.
  - D. [22 TAC §801.143\(d\) and \(f\)\(3\)](#) *Supervisor Requirements*, concerning
    - i. A supervisor must maintain a complete supervision file on the LMFT Associate including the established plan for the custody and control of the supervisee's records in the event of the supervisor's death or incapacity, or the termination of the supervisor's practice.
    - ii. Supervisors may only supervise the number of individuals for which they can provide adequate supervision.
12. Discussion and possible action regarding jurisprudence exam:
  - A. Discussion and possible action concerning the quarterly summary from the Texas State Board of Examiners of Marriage and Family Therapists' Jurisprudence Exam vendor.
  - B. Discussion and possible action related to changes in the Board's Jurisprudence Exam.
13. 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.
14. Report from the Board's Delegates to the Texas Behavioral Health Executive Council regarding the activities of the Executive Council, including
  - A. Council's rulemaking actions taken at its May 23, 2023 meeting; and
  - B. Other Council updates.
15. Report from the Board Administrator concerning 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; and general information regarding the routine functioning of the program.
16. Discussion and possible action regarding future priorities and activities of the Board.
17. Public Comment.

19. Announcements and comments not requiring Board action, such as statements regarding conferences and other recent or upcoming events.

20. Adjournment.

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

Visit BHEC's Contact Us webpage at <https://www.bhec.texas.gov/contact-us/index.html> and select "Administration and Executive Leadership" from the drop-down menu to send an email.

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

When: Jul 21, 2023 01:00 PM Central Time (US and Canada)

Topic: Texas State Board of Examiners of Marriage and Family Therapists' July 21, 2023 meeting

Please click the link below to join the webinar: <https://us02web.zoom.us/j/89473435799>

Or One tap mobile :

+13462487799,,89473435799# US (Houston)

+12532158782,,89473435799# US (Tacoma)

Or Telephone:

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

+1 346 248 7799 US (Houston)

+1 253 215 8782 US (Tacoma)

+1 669 444 9171 US

+1 669 900 9128 US (San Jose)

+1 719 359 4580 US

+1 253 205 0468 US

+1 301 715 8592 US (Washington DC)

+1 305 224 1968 US

+1 309 205 3325 US

+1 312 626 6799 US (Chicago)

+1 360 209 5623 US

+1 386 347 5053 US

+1 507 473 4847 US

+1 564 217 2000 US

+1 646 558 8656 US (New York)

+1 646 931 3860 US

+1 689 278 1000 US

Webinar ID: 894 7343 5799

International numbers available: <https://us02web.zoom.us/j/89473435799>



**COMPLAINT NO. 1062-20-0045**

**IN THE MATTER OF**

**DEBBIE MABRAY**

§ **BEFORE THE TEXAS BEHAVIORAL**  
§ **HEALTH EXECUTIVE COUNCIL**  
§  
§ **THE TEXAS STATE BOARD**  
§ **OF EXAMINERS OF**  
§ **MARRIAGE AND FAMILY**  
§ **THERAPISTS**

**AGREED ORDER**

Pursuant to the authority under §507.305 of the Texas Occupations Code, §2001.056 of the Government Code, and 22 Texas Administrative Code §884.12(e), the Executive Director for the Texas Behavioral Health Executive Council ("Council") hereby approves, ratifies, and enters this Agreed Order with the following Findings of Fact, Conclusions of Law, and Order of the Council, which have been approved and accepted by Debbie Mabray ("Respondent") and which constitutes a full settlement and compromise of the complaint currently pending against Respondent before the Council in the above-referenced and numbered matter.

**FINDINGS OF FACT**

1. Respondent is licensed as a marriage and family therapist (#5060) in the State of Texas and is, therefore, subject to the jurisdiction of the Council.
2. From 2016 to 2022, Respondent aided and abetted the unlicensed practice of marriage and family therapy by allowing a person claiming to be a pastoral counselor, to practice in an office in Respondent's building, list his name on Respondent's website, and share in the cost of administrative expenses, including the use of Respondent's billing service provider. This person claiming to be a pastoral counselor was not a recognized member of the clergy acting within his ministerial capabilities, nor was he operating under a religious entity or nonprofit organization.
3. Respondent did not have any supervisory role or responsibility for the person claiming to be a pastoral counselor who rented space in Respondent's building, listed their name on Respondent's website, and shared administrative expenses with Respondent.
4. On or about November 7, 2022, Respondent discontinued the office and expense sharing arrangement with the person claiming to be a pastoral counselor.

**CONCLUSIONS OF LAW**

1. Respondent voluntarily received a license from the Council and, therefore, is bound by the provisions of Chapters 502 and 507 of the Texas Occupations Code and the Rules of the



Council, 22 Texas Administrative Code Parts 35 and 41.

2. Violation of the Council's Rules is unprofessional conduct and constitutes grounds for the imposition of sanctions under §§502.351, 507.301, and 507.351 of the Texas Occupations Code.
3. Based on the above Findings of Fact, the Council finds that Respondent violated Council Rules 801.44(t).

### **ORDER**

#### **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. Respondent's license is hereby REPRIMANDED.
2. Respondent is assessed and shall pay, within sixty (60) days of the date this order is ratified, an administrative penalty in the total amount of \$3,000.00; of which \$2,750.00 represents administrative costs and \$250.00 represents administrative penalty.

### **WARNING**

**RESPONDENT'S FAILURE TO COMPLY WITH ONE OR MORE TERMS OF THIS ORDER MAY CONSTITUTE A VIOLATION OF 22 TEXAS ADMINISTRATIVE CODE §884.55 REQUIRING FURTHER DISCIPLINARY ACTION.**

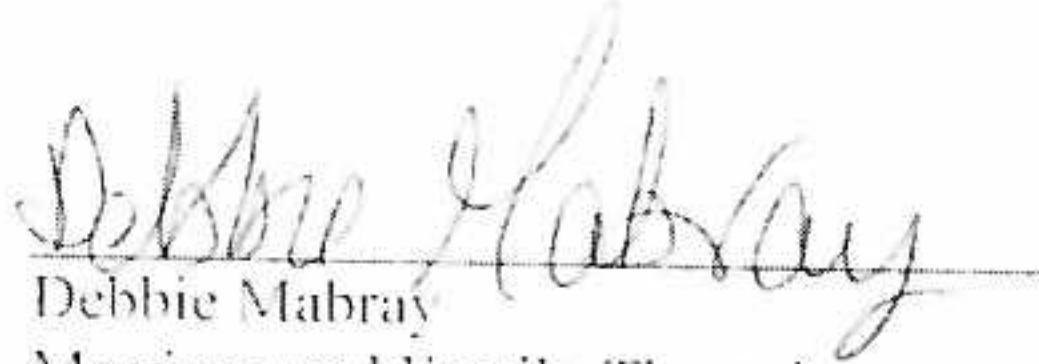
### **WAIVERS**

On the underlying investigative file, Respondent has waived his or her right to an informal settlement conference, a formal hearing before an Administrative Law Judge at the State Office of Administrative Hearings (SOAH), and judicial review pursuant to Texas Government Code Chapter 2001, in exchange for the conditions set out in this Agreed Order.

THE RESPONDENT, BY SIGNING THIS ORDER, AGREES TO ITS TERMS, ACKNOWLEDGES UNDERSTANDING OF THE FORMAL NOTICES, FINDINGS OF FACT, AND CONCLUSIONS OF LAW SET FORTH HEREIN AND COVENANTS TO SATISFACTORILY COMPLY WITH THE MANDATES OF THIS ORDER IN A TIMELY MANNER. RESPONDENT FURTHER ACKNOWLEDGES AND AGREES THAT HE OR SHE HAS AGREED TO THIS ORDER UPON THE ADVICE AND CONSENT OF COUNSEL, OR THAT HE OR SHE HAS HAD THE OPPORTUNITY TO HAVE THIS ORDER REVIEWED BY COUNSEL OF HIS OR HER CHOICE.




FOR THE RESPONDENT:

  
Debbie Mabray  
Marriage and Family Therapist  
License # 5060


DATE SIGNED: 3-15-2023

FOR THE STAFF OF THE COUNCIL:

  
Brian Clark  
Texas Bar No. 24099457  
Staff Attorney  
Texas Behavioral Health Executive Council  
1801 Congress Ave., Suite 7.300  
Austin, Texas 78701

DATE SIGNED: 3/21/23

APPROVED, RATIFIED, AND ENTERED THIS 21st DAY OF March, 2023.

  
Darrel Spinks  
Executive Director  
Texas Behavioral Health Executive Council



COMPLAINT NOS. 2022-00553, 2023-00135, AND 2023-00154

IN THE MATTER OF

KYLE SESSUMS

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BEFORE THE TEXAS BEHAVIORAL  
HEALTH EXECUTIVE COUNCIL

THE TEXAS STATE BOARD  
OF EXAMINERS OF  
MARRIAGE AND FAMILY  
THERAPISTS

**AGREED ORDER**

Pursuant to the authority under §507.305 of the Texas Occupations Code, §2001.056 of the Government Code, and 22 Texas Administrative Code §884.12(e), the Executive Director for the Texas Behavioral Health Executive Council ("Council") hereby approves, ratifies, and enters this Agreed Order with the following Findings of Fact, Conclusions of Law, and Order of the Council, which have been approved and accepted by Kyle Sessums ("Respondent") and which constitutes a full settlement and compromise of the complaint currently pending against Respondent before the Council in the above-referenced and numbered matter.

**FINDINGS OF FACT**

1. Respondent is licensed as a marriage and family therapist (#202530) in the State of Texas and is, therefore, subject to the jurisdiction of the Council.
2. Respondent practiced therapeutic deception and sexual exploitation when he sent sexually explicit text messages, pictures, and videos to a client.
3. From on or about December 21, 2021 to on or about July 18, 2022, Respondent practiced marriage and family therapy with an expired license.

**CONCLUSIONS OF LAW**

1. Respondent voluntarily received a license from the Council and, therefore, is bound by the provisions of Chapters 502 and 507 of the Texas Occupations Code and the Rules of the Council, 22 Texas Administrative Code Parts 35 and 41.
2. Violation of the Council's Rules is unprofessional conduct and constitutes grounds for the imposition of sanctions under §§502.351, 507.301, and 507.351 of the Texas Occupations Code.
3. Based on the above Findings of Fact, the Council finds that Respondent violated Council Rules 801.45(d) and 882.21(c).



4. This Agreed Order is a Settlement Agreement under the Texas Rules of Evidence and is not admissible for the purposes of civil litigation. By entering into this Agreed Order, Respondent does not admit the foregoing Findings of Fact or Conclusions of Law, but agrees to resolve this matter to avoid the expense and uncertainty of further proceedings.

### **ORDER**

#### **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. Respondent's license is SUSPENDED for a period of four (4) years from the effective date of this order. However, after the first one (1) year of suspension, the remaining three (3) years of suspension shall be PROBATED, so long as Respondent complies with all state and federal statutes and regulations pertaining to the practice of marriage and family therapy. Although the suspension and probated suspension ordered herein will result in Respondent's license being restricted, Respondent shall take all steps necessary to renew and maintain Respondent's license while this order is in effect. Respondent's license shall remain on restricted status until all terms of this order have been satisfactorily completed.
2. Respondent is assessed and shall pay, within two hundred (200) days of the date this order is ratified, an administrative penalty in the total amount of \$3,000.00; of which \$2,500.00 represents administrative costs and \$500.00 represents administrative penalty.
3. Respondent, within sixty (60) days of the date this order is ratified, shall complete and submit proof of completion of sixteen (16) hours of professional development relating to boundaries. This professional development is in addition to the professional development hours required for license renewal. Respondent will pay all costs of the coursework.
4. Respondent shall be required to participate in therapy for no less than one year from the date this order is ratified. Respondent shall, within thirty (30) days of the date this order is ratified, submit to the Council, or its designee, for approval the name and qualifications of a marriage and family therapist who has agreed to provide Respondent therapy. The therapist shall (1) be a Texas-licensed marriage and family therapist with no record of disciplinary actions; and (2) have no business, professional, personal, or other relationship with Respondent that would interfere with the therapist's function or duties. Respondent must attend therapy at least twice a month but if Respondent's therapist recommends therapy on a more frequent basis, then Respondent must comply with such recommendations.

It shall be Respondent's responsibility to assure the therapist submits written reports to the Council, or its designee, on a quarterly basis verifying that therapy has taken place, providing a general opinion and evaluation of the Respondent, and providing an opinion regarding the Respondent's ability to provide marriage and family therapy services in safe and competent manner as well as any recommendations to enhance or maintain Respondent's fitness to practice marriage and family therapy.



In the event Respondent's therapist indicates that Respondent is fit to practice marriage and family therapy but makes recommendations concerning reasonable steps Respondent must or should take to enhance or maintain Respondent's fitness to practice marriage and family therapy, Respondent shall comply with any and all recommendations made by Respondent's therapist. If Respondent refuses or fails to follow the recommendations, Respondent agrees that Respondent's license shall be SUSPENDED, without further hearings, informal settlement procedures, or any right of appeal for judicial review; pending further review of Respondent by the Council, or its designee.

If the therapist concludes there is sufficient concern or need to impose further requirements, restrictions, and/or take other appropriate actions to ensure the safety of the public the Council, or its designee, may do so at its own discretion. In the event Respondent refuses or fails to follow the additional requirements or restrictions imposed by the Council, or its designee, Respondent agrees that Respondent's license shall be SUSPENDED, without further hearings, informal settlement procedures, or any right of appeal for judicial review; pending further review of Respondent by the Council, or its designee.

After a full year of therapy, and only if the Respondent's therapist recommends doing so in writing, Respondent may submit a written request to the Council, or its designee, to end this required therapy; and the Council, or its designee, may grant or deny this request at its own discretion. A full year of therapy shall be 365 days from the date Respondent has the first therapy session and continued for the minimum required two (2) session per month. If the therapist cannot continue providing therapy, Respondent shall get approval from the Council, or its designee, for a new therapist. If Respondent does not have any therapy for a period of more than thirty (30) days Respondent's license shall be SUSPENDED until therapy resumes and the therapist submits a report attesting to Respondent's fitness to provide marriage and family services in safe and competent manner. During any period of non-practice or non-therapy, the therapy time period shall be tolled and any period of non-practice or non-therapy shall not apply to the reduction of this time period. Respondent shall pay all costs associated with this therapy requirement.

5. Respondent shall be required to practice under the supervision of a practice monitor for a period of one (1) year from the date his one (1) year license suspension is completed. Respondent shall, within fourteen (14) days of the date the suspension is completed, submit to the Council or its designee for approval the name and qualifications of a marriage and family therapist who has agreed to serve as a practice monitor. The practice monitor shall (1) be a Texas-licensed marriage and family with no record of disciplinary actions; (2) have no business, professional, personal, or other relationship with Respondent that would interfere with the practice monitor's function or duties; and (3) possess specialized knowledge, education and experience in the same field of practice as that of Respondent.

Once approved, the practice monitor shall submit to the Council or its designee a monitoring contract and plan by which Respondent's practice shall be monitored for



compliance with ethical and legal practice standards, as well as the terms of this Order. Monitoring shall consist of at least four (4) hours of individual face-to-face meetings or online meetings via video every month. The Respondent shall provide the practice monitor with a copy of this Order and access to Respondent's records. Respondent shall execute a release authorizing the practice monitor to divulge any information the Council or its designee may request.

It shall be Respondent's responsibility to assure the practice monitor submits written reports to the Council or its designee on a quarterly basis verifying that monitoring has taken place and providing an evaluation of Respondent's performance. At the Council's discretion, if any of these reports provides sufficient concern, the Council may impose further monitoring requirements and/or take other appropriate actions to ensure the safety of the public.

In the event Respondent's monitor indicates that Respondent is fit to practice marriage and family therapy, but makes recommendations concerning reasonable steps, Respondent must or should take to enhance or maintain Respondent's fitness to practice marriage and family therapy, Respondent shall comply with any and all recommendations made by Respondent's monitor. If Respondent refuses or fails to follow the recommendations, Respondent agrees that Respondent's license shall be SUSPENDED, without further hearings, informal settlement procedures, or any right of appeal for judicial review; pending further review of Respondent by the Council, or its designee.

If the monitor concludes there is sufficient concern or need to impose further requirements, restrictions, and/or take other appropriate actions to ensure the safety of the public the Council, or its designee, may do so at its own discretion. In the event Respondent refuses or fails to follow the additional requirements or restrictions imposed by the Council, or its designee, Respondent agrees that Respondent's license shall be SUSPENDED, without further hearings, informal settlement procedures, or any right of appeal for judicial review; pending further review of Respondent by the Council, or its designee.

If the practice monitor cannot continue the monitoring engagement, Respondent shall get approval from the Council or its designee for a new practice monitor. If no new practice monitor is approved, Respondent shall not practice until a new practice monitor has been approved. If Respondent does not have at least four (4) hours of individual face-to-face supervision or meetings via video every month, Respondent's license shall be SUSPENDED, without further hearings, informal settlement procedures, or any right of appeal for judicial review, until supervision resumes and the practice monitor submits a report attesting to Respondent's fitness to provide marriage and family therapy services in safe and competent manner. During any period of suspension, non-practice, or non-supervision by a practice monitor, the one (1) year practice monitoring time period shall be tolled and shall not apply to the reduction of this required one (1) year practice monitoring time period. Respondent shall pay all costs associated with this practice monitoring requirement. **RESPONDENT AGREES THAT ANY FAILURE TO**



COMPLY WITH THE PRACTICE MONITORING REQUIREMENTS, OR ANY OTHER TERM IN THIS ORDER, SHALL CONSTITUTE IMMEDIATE GROUNDS FOR REVOCATION OF RESPONDENT'S LICENSE.

**WARNING**

RESPONDENT'S FAILURE TO COMPLY WITH ONE OR MORE TERMS OF THIS ORDER MAY CONSTITUTE A VIOLATION OF 22 TEXAS ADMINISTRATIVE CODE §884.55 REQUIRING FURTHER DISCIPLINARY ACTION.

**WAIVERS**

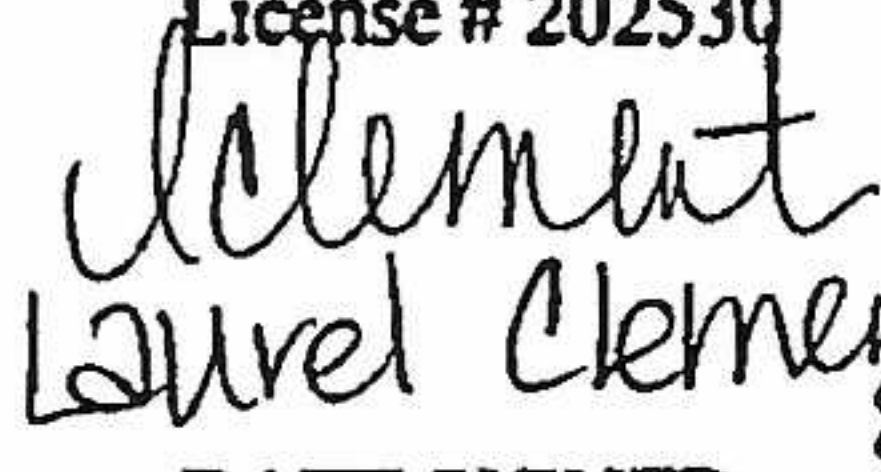
On the underlying investigative file, Respondent has waived his or her right to an informal settlement conference, a formal hearing before an Administrative Law Judge at the State Office of Administrative Hearings (SOAH), and judicial review pursuant to Texas Government Code Chapter 2001, in exchange for the conditions set out in this Agreed Order.

THE RESPONDENT, BY SIGNING THIS ORDER, AGREES TO ITS TERMS, ACKNOWLEDGES UNDERSTANDING OF THE FORMAL NOTICES, FINDINGS OF FACT, AND CONCLUSIONS OF LAW SET FORTH HEREIN AND COVENANTS TO SATISFACTORILY COMPLY WITH THE MANDATES OF THIS ORDER IN A TIMELY MANNER. RESPONDENT FURTHER ACKNOWLEDGES AND AGREES THAT HE OR SHE HAS AGREED TO THIS ORDER UPON THE ADVICE AND CONSENT OF COUNSEL, OR THAT HE OR SHE HAS HAD THE OPPORTUNITY TO HAVE THIS ORDER REVIEWED BY COUNSEL OF HIS OR HER CHOICE.

FOR THE RESPONDENT:



Kyle Sessums  
Marriage and Family Therapist  
License # 202530



Laurel Clement, Attorney  
2/17/23

DATE SIGNED: \_\_\_\_\_

FOR THE STAFF OF THE COUNCIL:



Brian Clark  
Texas Bar No. 24099457  
Staff Attorney  
Texas Behavioral Health Executive Council  
1801 Congress Ave., Suite 7.300  
Austin, Texas 78701

DATE SIGNED: 3/3/23



APPROVED, RATIFIED, AND ENTERED THIS 8<sup>th</sup> DAY OF March, 2023.

A handwritten signature in blue ink, appearing to read "Darrel Spinks", written over a horizontal line.

Darrel Spinks  
Executive Director  
Texas Behavioral Health Executive Council

COMPLAINT NO. 2023-00089

IN THE MATTER OF

DEANNA HARRIS-MCKOY

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BEFORE THE TEXAS BEHAVIORAL  
HEALTH EXECUTIVE COUNCIL

THE TEXAS STATE BOARD  
OF EXAMINERS OF  
MARRIAGE AND FAMILY  
THERAPISTS

**AGREED ORDER**

Pursuant to the authority under §507.305 of the Texas Occupations Code, §2001.056 of the Government Code, and 22 Texas Administrative Code §884.12(e), the Executive Director for the Texas Behavioral Health Executive Council ("Council") hereby approves, ratifies, and enters this Agreed Order with the following Findings of Fact, Conclusions of Law, and Order of the Council, which have been approved and accepted by Deanna Harris-McKoy ("Respondent") and which constitutes a full settlement and compromise of the complaint currently pending against Respondent before the Council in the above-referenced and numbered matter.

**FINDINGS OF FACT**

1. Respondent is licensed as a marriage and family therapist (#202145) in the State of Texas and is, therefore, subject to the jurisdiction of the Council.
2. From on or about August 3, 2020 to on or about December 9, 2020, Respondent aided and abetted the unlicensed practice of marriage and family therapy by allowing Rulesha Hart to practice marriage and family therapy before her license was issued.

**CONCLUSIONS OF LAW**

1. Respondent voluntarily received a license from the Council and, therefore, is bound by the provisions of Chapters 502 and 507 of the Texas Occupations Code and the Rules of the Council, 22 Texas Administrative Code Parts 35 and 41.
2. Violation of the Council's Rules is unprofessional conduct and constitutes grounds for the imposition of sanctions under §§502.351, 507.301, and 507.351 of the Texas Occupations Code.
3. Based on the above Findings of Fact, the Council finds that Respondent violated Council Rules 801.44(l).

### **ORDER**

#### **IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. Respondent's license is SUSPENDED for a period of one (1) year from the effective date of this order. However, the one (1) year of suspension shall be PROBATED, so long as Respondent complies with all state and federal statutes and regulations pertaining to the practice of marriage and family therapy. Although the probated suspension ordered herein will result in Respondent's license being restricted, Respondent shall take all steps necessary to renew and maintain Respondent's license while this order is in effect. Respondent's license shall remain on restricted status until all terms of this order have been satisfactorily completed.
2. Respondent is assessed and shall pay, within thirty (30) days of the date this order is ratified, an administrative penalty in the total amount of \$1,000.00; of which \$950.00 represents administrative costs and \$50.00 represents administrative penalty.
3. Respondent, within thirty (30) days of the date this order is ratified, shall complete and submit proof of completion of six (6) hours of professional development relating to supervision ethics in Texas. This professional development is in addition to the professional development hours required for license renewal. Respondent will pay all costs of the coursework.
4. Pursuant to Rule 801.143(k) Respondent's status as a supervisor is hereby revoked. Once the terms of this order have been completed Respondent may then reapply for supervisor status. Respondent must meet all applicable licensure rules and requirements at the time of reapplication for supervisor status, the fact that Respondent previously held supervisor status does not guarantee Respondent's future application will be approved.

### **WARNING**

**RESPONDENT'S FAILURE TO COMPLY WITH ONE OR MORE TERMS OF THIS ORDER MAY CONSTITUTE A VIOLATION OF 22 TEXAS ADMINISTRATIVE CODE §884.55 REQUIRING FURTHER DISCIPLINARY ACTION.**


### **WAIVERS**

On the underlying investigative file, Respondent has waived his or her right to an informal settlement conference, a formal hearing before an Administrative Law Judge at the State Office of Administrative Hearings (SOAH), and judicial review pursuant to Texas Government Code Chapter 2001, in exchange for the conditions set out in this Agreed Order.

**THE RESPONDENT, BY SIGNING THIS ORDER, AGREES TO ITS TERMS, ACKNOWLEDGES UNDERSTANDING OF THE FORMAL NOTICES, FINDINGS OF**

FACT, AND CONCLUSIONS OF LAW SET FORTH HEREIN AND COVENANTS TO SATISFACTORILY COMPLY WITH THE MANDATES OF THIS ORDER IN A TIMELY MANNER. RESPONDENT FURTHER ACKNOWLEDGES AND AGREES THAT HE OR SHE HAS AGREED TO THIS ORDER UPON THE ADVICE AND CONSENT OF COUNSEL, OR THAT HE OR SHE HAS HAD THE OPPORTUNITY TO HAVE THIS ORDER REVIEWED BY COUNSEL OF HIS OR HER CHOICE.

FOR THE RESPONDENT:



Deanna Harris-McKoy  
Marriage and Family Therapist  
License #202154

DATE SIGNED: 05/21/2023

FOR THE STAFF OF THE COUNCIL:



Brian Clark  
Texas Bar No. 24099457  
Staff Attorney  
Texas Behavioral Health Executive Council  
1801 Congress Ave., Suite 7.300  
Austin, Texas 78701

DATE SIGNED: 5/25/23

APPROVED, RATIFIED, AND ENTERED THIS 31st DAY OF May, 2023.



Darrel Spinks  
Executive Director  
Texas Behavioral Health Executive Council

**COMPLAINT NO. 2023-00144**

**IN THE MATTER OF**

**CASEY CULLEN**

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**BEFORE THE TEXAS BEHAVIORAL  
HEALTH EXECUTIVE COUNCIL**

**THE TEXAS STATE BOARD  
OF EXAMINERS OF  
MARRIAGE AND FAMILY  
THERAPISTS**

**AGREED ORDER FOR ELIGIBILITY**

Pursuant to its authority under §507.305 of the Texas Occupations Code, §2001.056 of the Government Code, and 22 Texas Administrative Code §884.12(e), the Executive Director for the Texas Behavioral Health Executive Council ("Council") hereby approves, ratifies, and enters this Agreed Order for Eligibility with the following Findings of Fact, Conclusions of Law, and Order of the Council, which have been approved and accepted by **Casey Cullen** ("Respondent").

**FINDINGS OF FACT**

1. Respondent is currently an applicant to have her expired license to practice marriage and family therapy (#203184) reinstated in the State of Texas and is, therefore, subject to the jurisdiction of the Council.
2. From on or about July 1, 2021 to on or about September 2022, Respondent practiced marriage and family therapy without an active license.

**CONCLUSIONS OF LAW**

1. Respondent voluntarily submitted an application to the Council and, therefore, is bound by the provisions of Chapters 502 and 507 of the Texas Occupations Code and the Rules of the Council, 22 Texas Administrative Code Parts 35 and 41.
2. Respondent's unlicensed practice constitutes a violation of Council Rules 882.21(c) and 882.23(a).
3. Based on the above-stated Findings of Fact, Respondent's application is subject to abatement for up to 180 days, pursuant to Council Rule §882.10, before the Council must render a decision upon the application.

**ORDER**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

Respondent shall, within ninety (90) days of the effective date of this order and prior to the issuance of a license, do the following:

Respondent is assessed and shall pay, within ninety (90) days of the date this order is ratified, an administrative penalty in the total amount of \$1,000.00; of which \$950.00 represents administrative costs and \$50.00 represents administrative penalty.

In the event Respondent fails to comply with any term of this order required to be completed prior to licensure, Respondent's license application shall be denied, without further hearings, informal settlement procedures, or any right of appeal for judicial review, and the Council shall not consider a subsequent application for licensure from Respondent, and Respondent agrees not to apply for any new license from the Council for one year from the effective date of this order.

Upon issuance, Respondent's license is REPRIMANDED.

**WARNING**

**RESPONDENT'S FAILURE TO COMPLY WITH ONE OR MORE TERMS OF THIS ORDER MAY CONSTITUTE A VIOLATION OF 22 TEXAS ADMINISTRATIVE CODE §884.55 REQUIRING FURTHER DISCIPLINARY ACTION.**

**WAIVERS**

On the underlying licensing/professional/investigative file, Respondent has freely and voluntarily waived his or her right to an informal settlement conference, a formal hearing before an Administrative Law Judge at the State Office of Administrative Hearings (SOAH), and judicial review pursuant to Texas Government Code Chapter 2001, in exchange for the conditions set out in this Agreed Order.

THE RESPONDENT, BY SIGNING THIS ORDER, AGREES TO ITS TERMS, ACKNOWLEDGES UNDERSTANDING OF THE FORMAL NOTICES, FINDINGS OF FACT, AND CONCLUSIONS OF LAW SET FORTH HEREIN AND COVENANTS TO SATISFACTORILY COMPLY WITH THE MANDATES OF THIS ORDER IN A TIMELY MANNER. RESPONDENT FURTHER ACKNOWLEDGES AND AGREES THAT HE OR SHE HAS AGREED TO THIS ORDER UPON THE ADVICE AND CONSENT OF COUNSEL, OR THAT HE OR SHE HAS HAD THE OPPORTUNITY TO HAVE THIS ORDER REVIEWED BY COUNSEL OF HIS OR HER CHOICE.

FOR THE RESPONDENT:

DocuSigned by:  
Casey Cullen LMFT  
1735B58C65DC46F  
Casey Cullen  
Marriage and Family Therapist  
License #203184

DATE SIGNED: 5/17/2023

FOR THE STAFF OF THE COUNCIL:

Brian Clark  
Brian Clark  
Texas Bar No. 24099457  
Staff Attorney  
Texas Behavioral Health Executive Council  
1801 Congress Ave., Suite 7.300  
Austin, Texas 78701

DATE SIGNED: 5/19/23

APPROVED, RATIFIED, AND ENTERED THIS 19th DAY OF May, 2023.

Darrel Spinks  
Darrel Spinks  
Executive Director  
Texas Behavioral Health Executive Council

<b>3rd Quarter STATUS REPORT</b>	<b>3Q FY23 Mar 1, 2023 to May 31, 2023</b>	<b>2Q FY23 Dec 1, 2022 to Feb 28, 2023</b>	<b>1Q FY23 Sept 1, 2022 to Nov 30, 2022</b>	<b>4Q FY22 June 1, 2022 to Aug 31, 2022</b>
New Complaints Received	<b>155</b>	101	157	159
Pending Complaints	<b>385</b> TSBEP-153 TSBSWE-124 TSBEMFT-18 TSBEP-90	347 TSBEP-123 TSBSWE-144 TSBEMFT-18 TSBEP-62	413 TSBEP-145 TSBSWE-171 TSBEMFT-25 TSBEP-72	467 TSBEP-188 TSBSWE-169 TSBEMFT-30 TSBEP-80
Pending Priority 1 Complaints (Imminent Physical Harm & Sexual Misconduct)	<b>47</b> TSBEP-25 TSBSWE-13 TSBEMFT-0 TSBEP-9	35 TSBEP-18 TSBSWE-11 TSBEMFT-3 TSBEP-3	38 TSBEP-16 TSBSWE-15 TSBEMFT-3 TSBEP-4	60 TSBEP-34 TSBSWE-19 TSBEMFT-4 TSBEP-3
Agreed Orders Signed	<b>31</b>	29	25	19
Complaints Dismissed by Staff	<b>87</b>	140	186	207
Complaints Dismissed by Member Boards	<b>0</b>	0	0	0
Total Complaints Resolved	<b>118</b>	169	211	226
Complaints Reviewed at an ISC	<b>31</b>	9	32	16
<b>Pending Cases by Fiscal Year</b>				
FY2016	<b>0</b>	0	0	3
FY2017	<b>0</b>	0	3	4
FY2019	<b>1</b>	2	2	3
FY2020	<b>11</b>	18	26	44
FY2021	<b>32</b>	37	63	80
FY2022	<b>93</b>	135	183	333
FY2023	<b>248</b>	155	136	
<b>Total</b>	<b>385</b>	347	413	467
<b>Compliance Report</b>				
Staff monitors respondents' compliance with disciplinary orders. Staff works with respondent or respondent's attorney to regain compliance. Those who do not comply may receive a new complaint, alleging noncompliance with an order, and if the allegations are supported by sufficient evidence, a new order may impose harsher sanctions. <b>*Of the 5 monitored orders, MFT has 1 noncompliant respondent.</b>	<b>47</b> TSBEP-26 TSBSWE-4 TSBEMFT-5* TSBEP-12			



Rule: 801.2. Definitions.

Action: Proposed Amendment

Comment: The proposed amendment adds a definition for independent practice.

§801.2. Definitions.

The following words and terms, when used in this chapter, have the following meanings unless the context indicates otherwise.

- (1) Accredited institutions or programs--An institution of higher education accredited by a regionally accrediting agency recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education.
- (2) Act--Texas Occupations Code, Chapter 502, the Licensed Marriage and Family Therapist Act.
- (3) Board--The Texas State Board of Examiners of Marriage and Family Therapists.
- (4) Client--An individual, family, couple, group, or organization who receives or has received services from a person identified as a marriage and family therapist who is either licensed by the council or unlicensed.
- (5) Council--The Texas Behavioral Health Executive Council.
- (6) Council Act--Texas Occupations Code, Chapter 507, concerning the Texas Behavioral Health Executive Council.
- (7) Council rules--22 Texas Administrative Code, Chapters 801 and 881 to 885.
- (8) Direct clinical services to couples or family-- professional services provided to couples or families in which a clinician delivers therapeutic services with two or more individuals simultaneously or two or more individuals from the same family system within the same therapeutic session. Individuals must share an ongoing relationship beyond that which occurs in the therapeutic experience itself. Examples of ongoing relationships include family systems, couple systems, enduring friendship/community support systems, and residential, treatment or situationally connected systems.
- (9) Endorsement--The process whereby the council reviews licensing requirements that a license applicant completed while under the jurisdiction of an out-of-state marriage and family therapy regulatory board. The council may accept, deny or grant partial credit for requirements completed in a different jurisdiction.
- (10) Executive director--the executive director for the Texas Behavioral Health Executive Council.
- (11) Family system--An open, on-going, goal-seeking, self-regulating, social system which shares features of all such systems. Certain features such as its unique structuring of gender, race, nationality and generation set it apart from other social systems. Each individual family system is shaped by its own particular structural features (size, complexity, composition, and life stage), the psychobiological characteristics of its

individual members (age, race, nationality, gender, fertility, health and temperament) and its socio-cultural and historic position in its larger environment.

- (12) Group supervision--Supervision that involves a minimum of three and no more than six marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.
- (13) Independent Practice--The practice of providing marriage and family therapy services to a client without the supervision of an LMFT-S.
- (14)(13) Individual supervision--Supervision of no more than two marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.
- (15)(14) Jurisprudence exam--An online learning experience based on the Act, the Council Act, and council rules, and other state laws and rules relating to the practice of marriage and family therapy.
- (16)(15) License--A marriage and family therapist license, a marriage and family therapist associate license, a provisional marriage and family therapist license, or a provisional marriage and family therapist associate license.
- (17)(16) Licensed marriage and family therapist (LMFT)--As defined in §502.002 of the Occupations Code, a person who offers marriage and family therapy for compensation.
- (18)(17) Licensed marriage and family therapist associate (LMFT Associate)--As defined in §502.002 of the Occupations Code, an individual who offers to provide marriage and family therapy for compensation under the supervision of a supervisor approved by the executive council. The appropriate council-approved terms to refer to an LMFT Associate are: "Licensed Marriage and Family Therapist Associate" or "LMFT Associate." Other terminology or abbreviations like "LMFT A" are not council-approved and may not be used.
- (19)(18) Licensee--Any person licensed by the council.
- (20)(19) Licensure examination--The national licensure examination administered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or the State of California marriage and family therapy licensure examination.
- (21)(20) Marriage and family therapy--The rendering of professional therapeutic services to clients, singly or in groups, and involves the professional application of family systems theories and techniques in the delivery of therapeutic services to those persons. The term includes the evaluation and remediation of cognitive, affective, behavioral, or relational dysfunction or processes.
- (22)(21) Month--A calendar month.
- (23)(22) Person--An individual, corporation, partnership, or other legal entity.
- (24)(23) Recognized religious practitioner--A rabbi, clergyman, or person of similar status who is a member in good standing of and accountable to a legally recognized denomination or legally recognizable religious denomination or legally recognizable

religious organization and other individuals participating with them in pastoral counseling if:

- (A) the therapy activities are within the scope of the performance of regular or specialized ministerial duties and are performed under the auspices of sponsorship of an established and legally recognized church, denomination or sect, or an integrated auxiliary of a church as defined in 26 CFR §1.6033-2(h) (relating to Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980));
- (B) the individual providing the service remains accountable to the established authority of that church, denomination, sect, or integrated auxiliary; and
- (C) the person does not use the title of or hold himself or herself out as a licensed marriage and family therapist.

~~(25)~~(24) Supervision—

- (A) Supervision for licensure--The guidance or management in the provision of clinical services by a marriage and family therapy supervisee or LMFT Associate, which must be conducted for at least one supervision hour each week, except for good cause shown.
- (B) Supervision, Council-ordered--For the oversight and rehabilitation in the provision of clinical services by a licensee under a Council Order, defined by the Order and the Council-Ordered Supervision Plan, and must be conducted as specified in the Council Order and Supervision Plan (generally in face-to-face, one-on-one sessions).

~~(26)~~(25) Supervision hour--50 minutes.

~~(27)~~(26) Supervisor--An LMFT with supervisor status meeting the requirements set out in §801.143 of this title (relating to Supervisor Requirements). The appropriate council-approved terminology to use in reference to a Supervisor is: "Supervisor," "Licensed Marriage and Family Therapist Supervisor," "LMFT-S" or "LMFT Supervisor." Other terminology or abbreviations may not be used.

~~(28)~~(27) Technology-assisted services--Providing therapy or supervision with technologies and devices for electronic communication and information exchange between a licensee in one location and a client or supervisee in another location.

~~(29)~~(28) Therapist--A person who holds a license issued by the council.

~~(30)~~(29) Waiver--The suspension of educational, professional, or examination requirements for an applicant who meets licensing requirements under special conditions.

Rule: 801.48 Record Keeping, Confidentiality, Release of Records, and Required Reporting.

Action: Proposed Amendment

Comment: This amendment is proposed for the purposes of clarity, to make it clear that any licensee in private practice must establish a plan of custody and control for a client's records.

(d) A licensee must report or release information as required by the following statutes:

- (1) Texas Family Code, Chapter 261 (relating to Investigation of Report of Child Abuse or Neglect);
- (2) Texas Human Resources Code, Chapter 48 (relating to Investigations and Protective Services for Elderly Persons and Persons with Disabilities);
- (3) Texas Health and Safety Code, Chapter 161, Subchapter L (relating to Abuse, Neglect, and Unprofessional or Unethical Conduct in Healthcare Facilities); and
- (4) Texas Civil Practice and Remedies Code, §81.006 (relating to Duty to Report Sexual Exploitation by a Mental Health Services Provider).

(A) If a licensee has reasonable cause to suspect that a client has been the victim of a sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider during therapy or any other course of treatment, or if a client alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or mental health services provider (during therapy or any other course of treatment), the licensee must report alleged misconduct not later than the 30th day after the date the licensee became aware of the misconduct or the allegations to:

- (i) the district attorney in the county in which the alleged sexual exploitation, sexual contact, or therapeutic deception occurred;

#### §801.48. Record Keeping, Confidentiality, Release of Records, 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 (relating to Mental Health Records), and other state or federal statutes or rules where such statutes or rules apply to a licensee's practice.
- (b) A licensee may not disclose any communication, record, or identity of a client except as provided in Texas Health and Safety Code, Chapter 611 (relating to Mental Health Records), or other state or federal statutes or rules.
- (c) A licensee must comply with Texas Health and Safety Code, Chapters 181 (relating to Medical Records Privacy) and 611 (relating to Mental Health Records), and other state or federal statutes or rules where such statutes or rules apply to a licensee's practice, concerning access to and release of mental health records and confidential information.
- (d) A licensee must report or release information as required by the following statutes:

- (1) Texas Family Code, Chapter 261 (relating to Investigation of Report of Child Abuse or Neglect);
  - (2) Texas Human Resources Code, Chapter 48 (relating to Investigations and Protective Services for Elderly Persons and Persons with Disabilities);
  - (3) Texas Health and Safety Code, Chapter 161, Subchapter L (relating to Abuse, Neglect, and Unprofessional or Unethical Conduct in Healthcare Facilities); and
  - (4) Texas Civil Practice and Remedies Code, §81.006 (relating to Duty to Report Sexual Exploitation by a Mental Health Services Provider).
- (A) If a licensee has reasonable cause to suspect that a client has been the victim of a sexual exploitation, sexual contact, or therapeutic deception by another licensee or a mental health services provider during therapy or any other course of treatment, or if a client alleges sexual exploitation, sexual contact, or therapeutic deception by another licensee or mental health services provider (during therapy or any other course of treatment), the licensee must report alleged misconduct not later than the 30th day after the date the licensee became aware of the misconduct or the allegations to:
- (i) the district attorney in the county in which the alleged sexual exploitation, sexual contact, or therapeutic deception occurred;
  - (ii) the council if the misconduct involves a licensee; and
  - (iii) any other state licensing agency which licenses the mental health services provider.
- (B) 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.
- (C) A report under this subsection is required to contain only the information needed to:
- (i) identify the reporter;
  - (ii) identify the alleged victim, unless the alleged victim has requested anonymity;
  - (iii) express suspicion that sexual exploitation, sexual contact, or therapeutic deception occurred; and
  - (iv) provide the name of the alleged perpetrator.
- (e) A licensee must keep accurate records of therapeutic services, including dates of services, types of services, progress or case notes and billing information for a minimum of seven years after termination of services or five years after a client reaches the age of majority, whichever is greater.
- (f) Records created by a licensee during the scope of the licensee's employment by educational institutions; by federal, state, or local government agencies; or political subdivisions or programs are not required to comply with the requirements of subsection (e) of this section.

- (g) A licensee must retain and dispose of client records in such a way that confidentiality is maintained.
- (h) In private ~~independent~~ practice, the licensee must establish a plan for the custody and control of the licensee's client mental health records in the event of the licensee's death or incapacity, or the termination of the licensee's professional services.

Rule: 801.142. Supervised Clinical Experience Requirements and Conditions  
Action: Proposed Amendment  
Comment: The proposed amendment increases the amount of hours that may be counted towards licensure that are provided by technology-assisted services from 500 hours to 750 hours.

§801.142. Supervised Clinical Experience Requirements and Conditions

An applicant for LMFT must complete supervised clinical experience acceptable to the council.

- (1) The LMFT Associate must have completed a minimum of two years of work experience in marriage and family therapy, which includes a minimum of 3,000 hours of supervised clinical practice. The required 3,000 must include:
  - (A) at least 1,500 hours providing direct clinical services, of which:
    - (i) no more than 750 ~~500~~ hours may be provided via technology-assisted services (as approved by the supervisor); and
    - (ii) at least 500 hours must be providing direct clinical services to couples or families.
  - (B) of the 200 hours of council-approved supervision, as defined in §801.2 of this title (relating to Definitions), of which:
    - (i) at least 100 hours must be individual supervision; and
    - (ii) no more than 50 hours may be provided by telephonic services, but there is no limit for hours by live video.
- (2) The remaining required hours, not covered by subsection (1) above, may come from related experiences, including workshops, public relations, writing case notes, consulting with referral sources, etc.
- (3) An LMFT Associate, when providing services, must receive a minimum of one hour of supervision every week, except for good cause shown.
- (4) Staff may count graduate internship hours exceeding the requirements set in §801.114(b)(8) of this title (relating to Academic Course Content) toward the minimum requirement of at least 3,000 hours of supervised clinical practice under the following conditions.
  - (A) No more than 500 excess graduate internship hours, of which no more than 250 hours may be direct clinical services to couples or families, completed under a Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.
  - (B) No more than 400 excess graduate internship hours, of which no more than 200 hours may be direct clinical services to couples or families, completed under a non-



- COAMFTE-accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.
- (C) No more than 100 excess graduate internship supervision hours may be counted toward the minimum requirement of at least 200 hours of council-approved supervision.
- (5) An LMFT Associate may practice marriage and family therapy in any setting under supervision, such as a private practice, public or private agencies, hospitals, etc.
- (6) During the post-graduate, supervised clinical experience, both the supervisor and the LMFT Associate may have disciplinary actions taken against their licenses for violations of the Act, the Council Act, or council rules.
- (7) Within 30 days of the initiation of supervision, an LMFT Associate must submit to the council a Supervisory Agreement Form for each council approved supervisor.
- (8) An LMFT Associate may have no more than two council-approved supervisors at a time, unless given prior approval by the council or its designee.
- (9) Except as specified in paragraph (4) of this section, hours of supervision and supervised clinical experience accrued toward an out-of-state LMFT license may be accepted only by endorsement.
- (A) The applicant must ensure supervision and supervised experience accrued in another jurisdiction is verified by the jurisdiction in which it occurred and that the other jurisdiction provides verification of supervision to the council.
- (B) If an applicant has been licensed as an LMFT in another United States jurisdiction for the two years immediately preceding the date the application is received, the supervised clinical experience requirements are considered met. If licensed for any other two-year period, the application will be reviewed to determine whether clinical experience requirements have been met in accordance with council rules, 22 Texas Administrative Code, §882.1 (relating to Application Process).
- (10) Applicants with a master's degree that qualifies under §§801.112 and 801.113 may count any supervision and experience (e.g., practicum, internship, externship) completed after conferral of the master's degree and as part of a doctoral program, toward the supervision and experience requirements set out in §801.142. A doctoral program must lead to a degree that qualifies under §§801.112 and 801.113 before the Council will award credit for supervision and experience under this provision.



Rule: 801.143. Supervisor Requirements

Action: Proposed Amendment

Comment: The proposed amendments remove the 12 supervisee limit on supervisors, allowing supervisors to determine the appropriate number of supervisees that they can provide adequate supervision. Additionally, the proposed amendments make it clear that a supervisor must establish a plan of custody and control for records of supervision for their LMFT Associates.

#### §801.143. Supervisor Requirements

- (a) To apply for supervisor status, an LMFT in good standing must submit an application and applicable fee as well as documentation of the following:
- (1) completion of at least 3,000 hours of LMFT practice over a minimum of 3 years; and
    - (A) successful completion of a 3-semester-hour, graduate course in marriage and family therapy supervision from an accredited institution; or
    - (B) a 40-hour continuing education course in clinical supervision; or
  - (2) designation as an approved supervisor or supervisor candidate by the American Association for Marriage and Family Therapy (AAMFT).
- (b) A supervisor may not be employed by the person he or she is supervising.
- (c) A supervisor may not be related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood or adoption) to the person whom he or she is supervising.
- (d) Within 60 days of the initiation of supervision, a supervisor must process and maintain a complete supervision file on the LMFT Associate. The supervision file must include:
- (1) a photocopy of the submitted Supervisory Agreement Form;
  - (2) proof of council approval of the Supervisory Agreement Form;
  - (3) a record of all locations at which the LMFT Associate will practice;
  - (4) a dated and signed record of each supervision conference with the LMFT Associate's total number of hours of supervised experience, direct client contact hours, and direct client contact hours with couples or families accumulated up to the date of the conference; ~~and~~
  - (5) an established plan for the custody and control of the records of supervision for each LMFT Associate in the event of the supervisor's death or incapacity, or the termination of the supervisor's practice; and
  - ~~(6)(5)~~ a copy of any written plan for remediation of the LMFT Associate.
- (e) Within 30 days of the termination of supervision, a supervisor must submit written notification to the council.

- (f) Both the LMFT Associate and the council-approved supervisor are fully responsible for the marriage and family therapy activities of the LMFT Associate.
  - (1) The supervisor must ensure the LMFT Associate knows and adheres to all statutes and rules that govern the practice of marriage and family therapy.
  - (2) A supervisor must maintain objective, professional judgment; a dual relationship between the supervisor and the LMFT Associate is prohibited.
  - (3) A supervisor may only supervise the number of individuals for which the supervisor can provide adequate supervision ~~not supervise more than 12 persons at one time.~~
  - (4) If a supervisor determines the LMFT Associate may not have the therapeutic skills or competence to practice marriage and family therapy under an LMFT license, the supervisor must develop and implement a written plan for remediation of the LMFT Associate.
  - (5) A supervisor must timely submit accurate documentation of supervised experience.
- (g) Supervisor status expires with the LMFT license.
- (h) A supervisor who fails to meet all requirements for licensure renewal may not advertise or represent himself or herself as a supervisor in any manner.
- (i) A supervisor whose license status is other than "current, active" is no longer an approved supervisor. Supervised clinical experience hours accumulated under that person's supervision after the date his or her license status changed from "current, active" or after removal of the supervisor designation will not count as acceptable hours unless approved by the council.
- (j) A supervisor who becomes subject to a council disciplinary order is no longer an approved supervisor. The person must:
  - (1) inform each LMFT Associate of the council disciplinary order;
  - (2) refund all supervisory fees received after date the council disciplinary order was ratified to the LMFT Associate who paid the fees; and
  - (3) assist each LMFT Associate in finding alternate supervision.
- (k) Supervision of an LMFT Associate without being currently approved as a supervisor is grounds for disciplinary action.
- (l) The LMFT Associate may compensate the supervisor for time spent in supervision if the supervision is not part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.
- (m) The 40-hour supervision training must comply with §801.261 of this title (relating to Requirements for Continuing Education) and:
  - (1) the course must be taught by a licensed marriage and family therapist holding supervisor status issued by the Council;
  - (2) all related coursework and assignments must be completed over a time period not to exceed 90 days; and
  - (3) the 40-hour supervision training must include at least:

- (A) three (3) hours for defining and conceptualizing supervision and models of supervision;
  - (B) three (3) hours for supervisory relationship and marriage and family therapist development;
  - (C) twelve (12) hours for supervision methods and techniques, covering roles, focus (process, conceptualization, and personalization), group supervision, multi-cultural supervision (race, ethnic, and gender issues), and evaluation methods;
  - (D) twelve (12) hours for supervision and standards of practice, codes of ethics, and legal and professional issues; and
  - (E) three (3) hours for executive and administrative tasks, covering supervision plan, supervision contract, time for supervision, record keeping, and reporting.
- (n) Subsection (m) of this rule is effective May 1, 2023.

15. Summary of Council's Activities

A. Affecting Title 22 of the Texas Administrative Code (22 TAC), the Council's rulemaking actions taken at its May 23, 2023, included adopted rules, published in the June 9, 2023, *Texas Register* and effective June 15, 2023:

1. [§882.10](#) *Applicants with Pending Complaints* – to change the way staff process applications when the applicant has a pending complaint. If the applicant has a pending complaint that alleges sexual misconduct or imminent physical harm then the application may be held in abeyance for up to 180 days while a determination on the complaint is made. All other applicants with pending complaints will have their applications processed as usual - the pending complaint will not impact the licensure application. The complaint will be investigated and processed according to normal procedures.
2. [§884.10](#) *Investigation of Complaints* – to reduce the priority rating system for complaints from four levels to two. The high priority shall be for all complaints involving sexual misconduct or imminent physical harm and all other complaints shall be a normal priority.

B. Affecting 22 TAC, the Council's rulemaking actions taken at its May 23, 2023, included proposed rules: 882.61 *Special Licensing Provisions for Service Members and Military Spouses* - to better align with Title 3 of the Texas Occupations Code and the Veterans Auto and Education Improvement Act of 2022 (Public Law No. 117-333), regarding licensing exemptions for service members and military spouses. Staff is working to prepare proposed rules package for submission to the Secretary of State.

C. Other Council updates include but may not be limited to the following.

1. Fiscal Year 2023, Second Quarter Performance Measures and Calculations
2. Monthly and Operating Budgets as of April 30, 2023
3. Review OAG Opinion No. KP-0426 regarding the Council's authority to re-adopt or repeal a rule as part of the statutorily required rule review if the rule in question is governed by Section 507.153 of the Occupations Code.
4. CE Broker Flyer and Client List

Rule: 882.61. Special Licensing Provisions for Service Members and Military Spouses

Action: Proposed Amendments

Comment: The proposed amendments are intended to better align this rule with both state and federal law regarding licensing exemptions for service members and military spouses.

§882.61. Special Licensing Provisions for Service Members and Military Spouses.

- (a) Notwithstanding §882.23 of this chapter and in accordance with §55.0041 of the Occupations Code and the Veterans Auto and Education Improvement Act of 2022 (Public Law No. 117-333), a ~~A~~ service member or military spouse is authorized ~~shall be issued a license to practice marriage and family therapy, professional counseling, psychology, or social work~~ without a license if the person meets each of the following requirements:
- (1) the service member or spouse notifies the Council on an agency approved form or as directed by agency staff, of the service member's or military spouse's intent to practice a particular profession in this state;
  - (2) the service member or military spouse provides verification of licensure in good standing in another jurisdiction in the similar scope of practice and in the discipline applied for in this state, and; that has licensing requirements that are substantially equivalent to the requirements for licensure in this state;
    - (i) has actively used the license during the two years immediately preceding the date of application; or
    - (ii) for military spouses only, holds a license that has licensing requirements that are substantially equivalent to the requirements for licensure in this state;
  - ~~(3) — the spouse submits a copy of the law reflecting the current licensing standards for the relevant profession in the state where the spouse is licensed, with the relevant portions highlighted for easy reference;~~
  - ~~(3)~~(4) the service member or military spouse submits proof of residency in this state (e.g. copy of a permanent change of station order) and a copy of the service member's or military spouse's military identification card; and

- ~~(4)(5)~~ the Council provides confirmation to the service member or military spouse that it has verified the service member's or military spouse's license in the other jurisdiction and that the service member or military spouse is authorized to practice a particular profession.
- (b) In order to meet the requirements of subsection (a)(2)(ii) of this section, a military spouse must submit a copy of the law reflecting the current licensing standards for the relevant profession in the state where the spouse is licensed, with the relevant portions highlighted for easy reference. The Council shall then determine substantial equivalency based upon the determinations made by the member boards under §882.60(d) of this chapter. ~~(relating to Special Provisions Applying to Military Service Members, Veterans, and Spouses).~~
- (c) The Council may rely upon the following when verifying licensure under this subsection: official verification received directly from the other jurisdiction, a government website reflecting active licensure and good standing, or verbal or email verification directly from the other jurisdiction.
- (d) A service member or military spouse authorized to practice ~~issued a license~~ under this rule is subject to all laws and regulations in the same manner as a regularly licensed provider.
- (e) A service member or military spouse may practice ~~license issued~~ under this rule ~~is valid while the holder's~~ service member or military spouse is stationed at a military installation in this state, ~~or for three years from the date of issuance, whichever is less. A license issued under this rule cannot be renewed or extended.~~
- (f) In order to obtain and maintain the privilege to practice without a license in this state, a service member or military spouse must remain in good standing with every licensing authority that has issued a license to the service member or military spouse at a similar scope of practice and in the discipline applied for in this state.
- (g) Subsection (a)(2)(i) of this section does not apply to service members or military spouses that are licensed and able to operate in this state through an interstate licensure compact. Service members or military spouses eligible to participate in an interstate licensure compact may either apply to practice through the authority of the interstate licensure compact or through other applicable state law.

Sec. 55.0041. RECOGNITION OF OUT-OF-STATE LICENSE OF MILITARY SPOUSE.

(a) Notwithstanding any other law, a military spouse may engage in a business or occupation for which a license is required without obtaining the applicable license if the spouse is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to the requirements for the license in this state.

(b) Before engaging in the practice of the business or occupation, the military spouse must:

(1) notify the applicable state agency of the spouse's intent to practice in this state;

(2) submit to the agency proof of the spouse's residency in this state in accordance with rules adopted under Section 55.004(d) and a copy of the spouse's military identification card; and

(3) receive from the agency confirmation that:

(A) the agency has verified the spouse's license in the other jurisdiction; and

(B) the spouse is authorized to engage in the business or occupation in accordance with this section.

(c) The military spouse shall comply with all other laws and regulations applicable to the business or occupation in this state.

(d) A military spouse may engage in the business or occupation under the authority of this section only for the period during which the military service member to whom the military spouse is married is stationed at a military installation in this state but not to exceed three years from the date the spouse receives the confirmation described by Subsection (b)(3).

(e) A state agency that issues a license shall adopt rules to implement this section. The rules must establish a process for the agency to:

(1) identify, with respect to each type of license issued by the agency, the jurisdictions that have licensing requirements that are substantially equivalent to the requirements for the license in this state; and

(2) verify that a military spouse is licensed in good standing in a jurisdiction described by Subdivision (1).

(f) In addition to the rules adopted under Subsection (e), a state agency that issues a license may adopt rules to provide for the issuance of a license to a military spouse to whom the agency provides confirmation under Subsection (b)(3). A license issued under this subsection must expire not later than the third anniversary of the date the agency provided

the confirmation and may not be renewed. A state agency may not charge a fee for the issuance of the license.

Added by Acts 2019, 86th Leg., R.S., Ch. 622 (S.B. [1200](#)), Sec. 1, eff. September 1, 2019.

Amended by:

Acts 2021, 87th Leg., R.S., Ch. 46 (H.B. [139](#)), Sec. 4, eff. September 1, 2021.



(b) **RETROACTIVE APPLICATION.**—The amendments made by this section shall apply to stop movement orders issued on or after March 1, 2020. 50 USC 3956 note.

**SEC. 18. RESIDENCE FOR TAX PURPOSES.**

Section 511(a) of the Servicemembers Civil Relief Act (50 U.S.C. 4001(a)) is amended by striking paragraph (2) and inserting the following:

“(2) **SPOUSES.**—A spouse of a servicemember shall neither lose nor acquire a residence or domicile for purposes of taxation with respect to the person, personal property, or income of the spouse by reason of being absent or present in any tax jurisdiction of the United States solely to be with the servicemember in compliance with the servicemember’s military orders.

“(3) **ELECTION.**—For any taxable year of the marriage, a servicemember and the spouse of such servicemember may elect to use for purposes of taxation, regardless of the date on which the marriage of the servicemember and the spouse occurred, any of the following:

“(A) The residence or domicile of the servicemember.

“(B) The residence or domicile of the spouse.

“(C) The permanent duty station of the servicemember.”.

**SEC. 19. PORTABILITY OF PROFESSIONAL LICENSES OF MEMBERS OF THE UNIFORMED SERVICES AND THEIR SPOUSES.**

(a) **IN GENERAL.**—Title VII of the Servicemembers Civil Relief Act (50 U.S.C. 4021 et seq.) is amended by inserting after section 705 (50 U.S.C. 4025) the following new section:

**“SEC. 705A. PORTABILITY OF PROFESSIONAL LICENSES OF SERVICEMEMBERS AND THEIR SPOUSES.** 50 USC 4025a.

“(a) **IN GENERAL.**—In any case in which a servicemember or the spouse of a servicemember has a covered license and such servicemember or spouse relocates his or her residency because of military orders for military service to a location that is not in the jurisdiction of the licensing authority that issued the covered license, such covered license shall be considered valid at a similar scope of practice and in the discipline applied for in the jurisdiction of such new residency for the duration of such military orders if such servicemember or spouse—

“(1) provides a copy of such military orders to the licensing authority in the jurisdiction in which the new residency is located; Records.

“(2) remains in good standing with—

“(A) the licensing authority that issued the covered license; and

“(B) every other licensing authority that has issued to the servicemember or the spouse of a servicemember a license valid at a similar scope of practice and in the discipline applied in the jurisdiction of such licensing authority;

“(3) submits to the authority of the licensing authority in the new jurisdiction for the purposes of standards of practice, discipline, and fulfillment of any continuing education requirements.

“(b) INTERSTATE LICENSURE COMPACTS.—If a servicemember or spouse of a servicemember is licensed and able to operate in multiple jurisdictions through an interstate licensure compact, with respect to services provided in the jurisdiction of the interstate licensure compact by a licensee covered by such compact, the servicemember or spouse of a servicemember shall be subject to the requirements of the compact or the applicable provisions of law of the applicable State and not this section.

“(c) COVERED LICENSE DEFINED.—In this section, the term ‘covered license’ means a professional license or certificate—

“(1) that is in good standing with the licensing authority that issued such professional license or certificate;

“(2) that the servicemember or spouse of a servicemember has actively used during the two years immediately preceding the relocation described in subsection (a); and

“(3) that is not a license to practice law.”.

(b) CLERICAL AMENDMENT.—The table of contents in section 1(b) of such Act is amended by inserting after the item relating to section 705 the following new item:

“Sec. 705A. Portability of professional licenses of servicemembers and their spouses.”.

#### **SEC. 20. PROVISION OF NONARTICULATING TRAILERS AS ADAPTIVE EQUIPMENT.**

Section 3901(2) of title 38, United States Code, is amended—

(1) by striking “and special” and inserting “special”; and

(2) by striking “conveyance.” and inserting “conveyance, and nonarticulating trailers solely designed to transport powered wheelchairs, powered scooters, or other similar mobility devices.”.

#### **SEC. 21. ELIGIBILITY FOR DEPARTMENT OF VETERANS AFFAIRS PROVISION OF ADDITIONAL AUTOMOBILE OR OTHER CONVEYANCE.**

Section 3903(a) of title 38, United States Code, is amended—

(1) in paragraph (1), by striking “paragraph (2)” and inserting “paragraphs (2) and (3)”; and

(2) by adding at the end the following new paragraph:

“(3) The Secretary may provide or assist in providing an eligible person with an additional automobile or other conveyance under this chapter—

“(A) if more than 30 years have elapsed since the eligible person most recently received an automobile or other conveyance under this chapter; or

“(B) beginning on the day that is 10 years after date of the enactment of the Veterans Auto and Education Improvement Act of 2022, if more than 10 years have elapsed since the eligible person most recently received an automobile or other conveyance under this chapter.”.

#### **SEC. 22. DEPARTMENT OF VETERANS AFFAIRS TREATMENT OF CERTAIN VEHICLE MODIFICATIONS AS MEDICAL SERVICES.**

Section 1701(6) of title 38, United States Code, is amended by adding at the end the following new subparagraph:

“(I) The provision of medically necessary van lifts, raised doors, raised roofs, air conditioning, and wheelchair tie-downs for passenger use.”.

Time periods.

Effective date.

***TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL***  
***2nd QUARTER MEASURES***  
***FY 2023***

Number of Licenses Renewed (from ald12)

LSSP	434
LIC	662
LPA	82
LPC	2893
MFTA	30
MFT	385
LBSW	376
LMSW	1277
LCSW	1429
AP	15

Total	7583
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Number of Licenses Issued (from ald11 and BO)

LPA	8
PLP	121
LIC	68
LSSP	15
LPCA	606
LPC	93
LPC Upgrade	471
MFTA	59
MFT	50
MFT Upgrade	47
LBSW	47
LMSW	407
LCSW	109
LMSW Upgrade	20
LCSW Upgrade	225
TEMP SW	7

Total	2353
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**TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL**  
**2nd QUARTER MEASURES**  
**FY 2023**

Number of Complaints Resolved (from BO report)

LP/LPA	26
LSSP	3
LPC	75
MFT	15
SW	48
Total	167

Percent of Complaint Resolved Within Six Months (from BO report)

1 <sup>st</sup> Qtr	125/209 =	60%
2 <sup>nd</sup> Qtr	88/167 =	53%
3 <sup>rd</sup> Qtr		
4 <sup>th</sup> Qtr		
YTD	213/376 =	57%

Percent of Complaints Resolved resulting in Disciplinary Action (from BO report)

1 <sup>st</sup> Qtr	25/209 =	12%
2 <sup>nd</sup> Qtr	29/167 =	18%
3 <sup>rd</sup> Qtr		
4 <sup>th</sup> Qtr		
YTD	54/376 =	15%

Average Time for Complaint Resolution (from BO report)

1 <sup>st</sup> Qtr	60,278 days to resolve 209 complaints =	288.42 days
2 <sup>nd</sup> Qtr	51,760 days to resolve 167 complaints =	309.94 days
3 <sup>rd</sup> Qtr		
4 <sup>th</sup> Qtr		
YTD	112,038 days to resolve 376 complaints =	297.98 days

Average Time for Application Processing (from BO report) (**Bold averages only**)

1 <sup>st</sup> Qtr	86,169 days to process 2,306 applications =	37.37 days
2 <sup>nd</sup> Qtr	82,086 days to process 2,296 applications =	35.76 days
3 <sup>rd</sup> Qtr		
4 <sup>th</sup> Qtr		
YTD	168,255 days to process 4,602 applications =	36.57 days

Calculations reviewed by: \_\_\_\_\_

Date: \_\_\_\_\_

<b>LPA Initial</b>	<b>683 days to process 16 applications =</b>	<b>42.69</b>
LPA Final	1209 days to process 8 applications =	151.13
<b>LIC Initial</b>	<b>5091 days to process 124 applications =</b>	<b>41.06</b>
LIC Final	14152 days to process 68 applications =	208.12
<b>LSSP</b>	<b>535 days to process 15 applications =</b>	<b>35.67</b>
<b>LPC Initial</b>	<b>7910 days to process 93 applications =</b>	<b>85.06</b>
<b>LPCA Initial</b>	<b>24313 days to process 606 applications =</b>	<b>40.12</b>
<b>LPC Upgrade</b>	<b>3928 days to process 471 applications =</b>	<b>8.34</b>
<b>MFT License</b>	<b>4400 days to process 50 applications =</b>	<b>88.00</b>
<b>MFTA License</b>	<b>8829 days to process 59 applications =</b>	<b>149.65</b>
<b>MFTA Upgrade</b>	<b>392 days to process 47 applications =</b>	<b>8.34</b>
<b>SW License</b>	<b>11822 days to process 408 applications =</b>	<b>29.13</b>
<b>SW OOS License</b>	<b>10714 days to process 155 applications =</b>	<b>69.13</b>
<b>SW Upgrade</b>	<b>3303 days to process 245 applications =</b>	<b>13.49</b>
<b>Temp SW License</b>	<b>166 days to process 7 applications =</b>	<b>23.72</b>

- Those in **BOLD** are the applications we have more control over (i.e. we are not waiting for them to take and pass a national exam).

**TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL**  
**ANNUAL MEASURES**  
**FY 2023**

Number of Jurisdictional Complaints Received (from BO report)	100
Number of Complaints Pending (from BO report)	347
Closed	5
Investigation Completed	60
Under Investigation	282

Percent of Licensees With No Recent Violations

<i>Total</i>	<i>295 disciplinary actions</i>
<i>Less duplicates</i>	<i>-58 duplicates</i>
<i>Total unduplicated</i>	<i>237 disciplinary actions</i>

*Number of individuals (unduplicated) licensed as of 8/31/2021:*    74,233

$$74,233 - 237 = 73,996$$

$$73,996/74,233 = 99.68\%$$

Recidivism Rate

<i>Individuals with disciplinary actions FY 19 – FY 21</i>	<i>237</i>
<i>Individuals with 2 or more disciplinary actions</i>	<i>14</i>

$$14/237 = 5.91\%$$

Calculation Reviewed by: \_\_\_\_\_

Date: \_\_\_\_\_

**2nd QUARTER PERFORMANCE MEASURES**  
**FISCAL YEAR 2023**

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

by

**Texas Behavioral Health Executive  
Council**

  
Executive Director

March 20, 20223

  
Date

Efficiency/Output Measures with Cover Page and Update Explanation  
87th Regular Session, Performance Reporting  
Automated Budget and Evaluation System of Texas (ABEST)

3/20/2023 9:24:16AM

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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Output Measures

1-1-1 LICENSING

1 # NEW LICENSEES ISSUED

Quarter 1	7,800.00	2,404.00	2,404.00	30.82 % *	1,560.00 - 2,340.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would issue 7,800 new licenses per fiscal year, or 1,950 per quarter. During the first quarter of FY 23, the agency exceeded its target by issuing 2,404 for the quarter.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of new licenses issued each quarter continue to average around 2,400 due to the dedication and efficiency of the licensing staff and the significant workforce shortage of behavioral health providers. The Council believes that its initial projection was too low, and has requested this target be increased to 9,300 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.



Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
1 # NEW LICENSEES ISSUED					
Quarter 2	7,800.00	2,353.00	4,757.00	60.99 % *	3,510.00 - 4,290.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would issue 7,800 new licenses per fiscal year, or 1,950 per quarter. During the second quarter of FY 23, the agency exceeded its target by issuing 2,353 for the quarter.

## HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of new licenses issued each quarter continue to average around 2,400 due to the dedication and efficiency of the licensing staff and the significant workforce shortage of behavioral health providers. The Council believes that its initial projection was too low, and has requested this target be increased to 9,300 in its FY24-FY25 LAR.

## 2 # LICENSE RENEWALS

\* Varies by 5% or more from target.

**Efficiency/Output Measures with Cover Page and Update Explanation**  
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Agency code: 510                      Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Output Measures**

2 # LICENSE RENEWALS

Quarter 1	44,000.00	7,213.00	7,213.00	16.39 % *	8,800.00 - 13,200.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would renew 44,000 licenses per fiscal year, or 11,000 per quarter. During the first quarter of FY 23, the agency fell short of its target, renewing 7,213 licenses.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

All license renewals are required to be submitted online and are approved automatically by the online licensing system, unless the licensee is under audit or the agency hasn't received the licensee's fingerprint criminal history results. Licensing staff have little control over how many licensees will choose to renew their license, and therefore how many renewals get processed. The Council believes that its initial projection was too high, and has requested this target be lowered to 29,000 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Output Measures**

**2 # LICENSE RENEWALS**

<b>Quarter 2</b>	44,000.00	7,583.00	14,796.00	33.63 % *	19,800.00 - 24,200.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would renew 44,000 licenses per fiscal year, or 11,000 per quarter. During the second quarter of FY 23, the agency fell short of its target, renewing 7,583 licenses.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

All license renewals are required to be submitted online and are approved automatically by the online licensing system, unless the licensee is under audit or the agency hasn't received the licensee's fingerprint criminal history results. Licensing staff have little control over how many licensees will choose to renew their license, and therefore how many renewals get processed. The Council believes that its initial projection was too high, and has requested this target be lowered to 29,000 in its FY24-FY25 LAR.

2-1-1 ENFORCEMENT

**1 COMPLAINTS RESOLVED**

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
1 COMPLAINTS RESOLVED					
Quarter 1	1,200.00	209.00	209.00	17.42 % *	240.00 - 360.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would resolve 1,200 complaints per fiscal year, or 300 per quarter. During the first quarter of FY 23, the agency fell short of its target by resolving 209 complaints.

## HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

At the beginning of FY 21, the agency inherited over 1,300 pending complaints. Due to the dedication and efficiency of the enforcement and legal staff, the pending complaints at the end of the first quarter of FY 23 is down to 413. Additionally, the agency is projecting to receive around 600 complaints this year. The Council has requested this target be lowered to 400 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
1 COMPLAINTS RESOLVED					
Quarter 2	1,200.00	167.00	376.00	31.33 % *	540.00 - 660.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would resolve 1,200 complaints per fiscal year, or 300 per quarter. During the second quarter of FY 23, the agency fell short of its target by resolving 167 complaints.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

At the beginning of FY 21, the agency inherited over 1,300 pending complaints. Due to the dedication and efficiency of the enforcement and legal staff, the pending complaints at the end of the second quarter of FY 23 is down to 347. Additionally, the agency is projecting to receive around 600 complaints this year. The Council has requested this target be lowered to 400 in its FY24-FY25 LAR.

2 COMPLAINTS PENDING

\* Varies by 5% or more from target.

**Efficiency/Output Measures with Cover Page and Update Explanation**  
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Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
2 COMPLAINTS PENDING					
Quarter 1	800.00	413.00	413.00	51.63 % *	760.00 - 840.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that there would be 800 complaints pending during FY 2023. During the first quarter of FY 23, the agency bested this measure by only having 413 complaints pending.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of complaints pending at the beginning of FY 21 was over 1,300. This number has now decreased to 413 due to the dedication and efficiency of the enforcement and legal staff. Additionally, the agency is projecting to only receive around 600 complaints this year. Due to these two factors, the Council believes that its initial projection of 800 complaints pending is too high for FY23, and has requested this target be lowered to 500 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

**Efficiency/Output Measures with Cover Page and Update Explanation**  
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Agency code: 510                      Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
2 COMPLAINTS PENDING					
Quarter 2	800.00	347.00	347.00	43.38 % *	760.00 - 840.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that there would be 800 complaints pending during FY 2023. During the second quarter of FY 23, the agency bested this measure by only having 347 complaints pending.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of complaints pending at the beginning of FY 21 was over 1,300. This number has now decreased to 347 due to the dedication and efficiency of the enforcement and legal staff. Additionally, the agency is projecting to only receive around 600 complaints this year. Due to these two factors, the Council believes that its initial projection of 800 complaints pending is too high for FY23, and has requested this target be lowered to 500 in its FY24-FY25 LAR.

**Efficiency Measures**

1-1-1 LICENSING

1 AVG TIME TO PROCESS APP (DAYS)

\* Varies by 5% or more from target.

**Efficiency/Output Measures with Cover Page and Update Explanation**  
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Agency code: 510                      Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Efficiency Measures**

**1 AVG TIME TO PROCESS APP (DAYS)**

Quarter 1	50.00	37.37	37.37	74.74 % *	47.50 - 52.50
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average issuance time for licenses would be 50 days. In the first quarter of FY 23, the agency bested this measure by having an average license issuance time of only 38 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for license issuance for FY 22 was 46 days. This number has now decreased to 38 days, due to the dedication and efficiency of the licensing staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be increased to 55 days in its FY24-FY25 LAR based upon baseline funding.

\* Varies by 5% or more from target.



Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Efficiency Measures</b>					
1 AVG TIME TO PROCESS APP (DAYS)					
Quarter 2	50.00	35.76	36.57	73.14 % *	47.50 - 52.50

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average issuance time for licenses would be 50 days. In the second quarter of FY 23, the agency bested this measure by having an average license issuance time of only 36 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for license issuance for FY 22 was 46 days. This number has now decreased to 37 days, due to the dedication and efficiency of the licensing staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be increased to 55 days in its FY24-FY25 LAR based upon baseline funding.

2-1-1 ENFORCEMENT

## 1 AVG TIME/COMPLAINT RESOLUTION

\* Varies by 5% or more from target.

**Efficiency/Output Measures with Cover Page and Update Explanation**  
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Agency code: 510                      Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Efficiency Measures</b>					
1 AVG TIME/COMPLAINT RESOLUTION					
Quarter 1	700.00	288.42	288.42	41.20 % *	665.00 - 735.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average processing time for complaints would be 700 days. In the first quarter of FY 23, the agency bested this measure by having an average processing resolution time of 289 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for complaint resolution for FY 22 was 581 days. This number has now decreased to 289 days, due to the dedication and efficiency of the enforcement and legal staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be lowered to 625 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

**Efficiency/Output Measures with Cover Page and Update Explanation**  
87th Regular Session, Performance Reporting  
Automated Budget and Evaluation System of Texas (ABEST)

3/20/2023 9:24:16AM

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Efficiency Measures**

1 AVG TIME/COMPLAINT RESOLUTION

Quarter 2	700.00	309.94	297.98	42.57 % *	665.00 - 735.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average processing time for complaints would be 700 days. In the second quarter of FY 23, the agency bested this measure by having an average processing resolution time of 310 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for complaint resolution for FY 22 was 581 days. This number has now decreased to 298 days, due to the dedication and efficiency of the enforcement and legal staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be lowered to 625 in its FY24-FY25 LAR

\* Varies by 5% or more from target.

Texas Behavioral Health Executive Council  
Operating Budget  
As of April 30, 2023

Program		Licensing	Enforcement	Indirect	TexasOnline	Datacenter	Totals
<b>Appropriations - GR</b>		1,803,893	1,917,881	33,400	136,000	59,232	3,950,406
<b>Excess Collected Revenue</b>		77,161	30,950		0		108,111
<b>Appropriation Transfers Out (HPC)</b>		-142,531	-142,531				-285,062
<b>Interagency Transfers</b>		0	0				
<b>Appropriation Transfers In (BRP)</b>		1,027					1,027
<b>eStrategy Exam Revenue</b>		527,366			18,130		545,496
<b>eStrategy Exam Appropriation Receipts</b>		80,220					80,220
<b>Lapsed Funds</b>							0
<b>Total Receipts</b>		<b>2,347,136</b>	<b>1,806,300</b>	<b>33,400</b>	<b>154,130</b>	<b>59,232</b>	<b>4,400,198</b>
<b>Expenditures</b>							
7002	Sal-Full Time Class	970,570	990,744				-1,961,314
7003	Sal-Part Time Class						0
7017	One Time Merit Increase	3,500	9,200				-12,700
7022	Longevity	19,350	13,390				-32,740
7023	Lump Sum Termination	4,562	4,507				-9,068
7024	Termination - Death Benefit						0
7033	Employee Retirement Cont.	2,913	7,473				-10,387
7040	Additional Payroll Ret. Cont.	4,853	4,953				-9,806
7042	Payroll Health Insurance 1%	9,159	8,980				-18,139
7050	Benefit Repl Pay	1,284					-1,284
7101	Travel-In St-Pub Trans	402	402				-803
7102	Travel-In State Mileage	1,044	1,044				-2,089
7105	Travel-In State Incident	349	349				-698
7106	Travel-In State Meals	360	360				-719
7107	Travel-In State Non-Overnight	24	24				-47
7108	Travel-In State Meals						0
7110	Bd Member Meals	947	947				-1,893
7111	Travel - OOS-Public Trans	1,960	1,960				-3,920
7114	Travel - OOS Actual Expense	818	818				-1,636
7115	Travel - OOS Incidental	260	260				-519
7116	Travel - OOS Meals/Lodging	626	626				-1,253
7135	Travel-Hotel Occ. Tax	9	9				-18
7136	Travel-Hotel Occ. Tax-Galveston						0
7201	Membership Fees	163	163	8,384			-8,709
7203	Reg Fees Empl Trng	32	32	7,205			-7,270
7204	Insurance Premiums						0
7210	Fees and Other Charges	6	6				-11
7211	Awards			85			-85
7219	eStrategy Exam Credit Card fees				18,045		-18,045
7219	Texas.gov Subscription fees				122,672		-122,672
7253	Prof Serv-Other		100				-100
7257	Legal Services - SOAH		4,763				-4,763
7267	Pers. Prop. Repair-Comp						0
7273	Printing Forms/Bus Cds	3,489	27				-3,516
7275	IT Services						0
7276	Elec Comm - Internet	1,317	1,317	798			-3,432
7285	DataCenter Costs					22,922	0
7286	Freight Delivery						0
7291	Postal Services						0
7295	Investigation Expenses	150		40			-190
7299	eStrategy Exams	524,901	2,500				-527,401
7299	Purc. Contracted Svc	2,564		3,023			-5,587
7300	Consumables	7,989	3,878				-11,867
7303	Subscriptions			90			-90
7334	Furn & Equip-expensed	115	115				-229
7335	Computer Parts-expensed						0
7367	Pers. Prop. - Maint						0
7377	Pers. Prop. Comp Equip - expensed	1,059	1,059				-2,118
7378	Pers. Prop. Comp Equip - controlled						0
7380	Intangible - Computer Software	1,215	1,215				-2,430
7382	Pers. Prop. - Books/Ref Mat.						0
7406	Rental - Equipment	2,978	2,978				-5,956
7442	Rental of Motor Vehicles						0
7503	Telecomm-Long Distance		266				-266
7470	Rental-Storage/Space			1,481			-1,481
7510	Telcom Parts/ Supplies						0
7526	Waste Disposal/Shredding						0
7806	Interest on Late Pmts						0
7947	SORM Pmt			1,785			-1,785
7961	Telecomm-Cap Compl	5,060	5,060				-10,119
7962	Cap. Cplx. Transfers	4,251	4,251				-8,501
7984	Unemployment	1,829					-1,829
<b>Total Expense</b>		<b>1,580,104</b>	<b>1,073,772</b>	<b>22,892</b>	<b>140,717</b>	<b>22,922</b>	<b>2,840,407</b>
<b>Cash Available</b>		<b>767,032</b>	<b>732,528</b>	<b>10,508</b>	<b>13,413</b>	<b>36,310</b>	<b>1,559,791</b>
<b>Percent of Budget Spent</b>		<b>67%</b>	<b>59%</b>	<b>69%</b>	<b>91%</b>	<b>39%</b>	<b>65%</b>
<b>Percent of Budget Remaining</b>		<b>33%</b>	<b>41%</b>	<b>31%</b>	<b>9%</b>	<b>61%</b>	<b>35%</b>

Percent of FY 2023 Remaining

34%

**Texas Behavioral Health Executive Council**  
**Monthly Operating Budget**  
**As of April 30, 2023**

	<u>Licensing</u>	<u>Enforcement</u>	<u>Indirect</u>	<u>Texas.gov</u>	<u>Datacenter</u>	<u>TOTALS</u>
<b><u>Revenues</u></b>						
Original Appropriations	1,803,893.00	1,917,881.00	33,400.00	136,000.00	59,232.00	3,950,406.00
Excess Collected Revenue Posted	77,161.00	30,950.00		-		108,111.00
Appropriation Transfers In (BRP)	1,026.86	-				1,026.86
Appropriation Transfers Out (HPC)	(142,531.00)	(142,531.00)				(285,062.00)
Interagency Transfers	-	-				-
eStrategy Exam Revenue (7009 exams)	527,366.28			18,129.72		545,496.00
eStrategy Exam Appropriated Receipts (7009 exams)	80,220.00					80,220.00
Lapsed Funds	-	-	-		-	-
<b>Total Available Revenues</b>	<b>2,347,136.14</b>	<b>1,806,300.00</b>	<b>33,400.00</b>	<b>154,129.72</b>	<b>59,232.00</b>	<b>4,400,197.86</b>
 <b><u>Expenditures</u></b>						
Salaries and Wages	970,569.93	990,744.31				1,961,314.24
Other Personnel Costs	32,153.76	34,569.89				66,723.65
Professional Fees and Services	11,460.89	16,323.38				27,784.27
Consumable Supplies	7,989.07	3,878.42				11,867.49
Utilities	-	265.51				265.51
Travel	6,797.75	6,797.53				13,595.28
Rent - Space/Building	-	-	1,481.38			1,481.38
Rent - Machine and Other	2,977.87	2,977.80				5,955.67
Other Operating Expenses	21,970.47	18,215.24	21,410.40	122,672.00	22,921.77	207,189.88
eStrategy Exam Expenses	524,901.03			18,044.97		542,946.00
Not Related to LBB tracking (BRP)	1,283.50					1,283.50
<b>Total Expenditures</b>	<b>1,580,104.27</b>	<b>1,073,772.08</b>	<b>22,891.78</b>	<b>140,716.97</b>	<b>22,921.77</b>	<b>2,840,406.87</b>
<b>Excess/ Shortage (encumbered)</b>	<b><u>767,031.87</u></b>	<b><u>732,527.92</u></b>	<b><u>10,508.22</u></b>	<b><u>13,412.75</u></b>	<b><u>36,310.23</u></b>	<b><u>1,559,790.99</u></b>
 <b>Percent of Budget Spent</b>	<b>67%</b>	<b>59%</b>	<b>69%</b>	<b>91%</b>	<b>39%</b>	<b>65%</b>
<b>Percent of Budget Remaining</b>	<b>33%</b>	<b>41%</b>	<b>31%</b>	<b>9%</b>	<b>61%</b>	<b>35%</b>
 <b>Percent of Year Remaining</b>	<b>34%</b>					



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 7, 2023

Mr. Darrel D. Spinks  
Executive Director  
Texas Behavioral Health Executive Council  
333 Guadalupe, Suite 3-900  
Austin, Texas 78701

**Opinion No. KP-0426**

Re: Authority of the Behavioral Health Executive Council to repeal rules under Occupations Code subsection 507.153(a) (RQ-0445-KP)

Dear Mr. Spinks:

You ask about the authority of the Texas Behavioral Health Executive Council (“Council”) to repeal rules under Occupations Code subsection 507.153(a).<sup>1</sup>

**Background**

In 2019, the Legislature created the Council to consolidate the regulation and administration of four behavioral health professions: the Marriage and Family Therapists, Professional Counselors, Social Worker Examiners, and Psychologists. *See generally* Act of May 22, 2019, 86th Leg., R.S., ch. 768, §§ 1.001–4.008, 2019 Tex. Gen. Laws 2125, 2125–188 (codified at TEX. OCC. CODE chapter 507). The Legislature created the Council as an “umbrella licensing agency [to] handle licensing, investigative, and enforcement matters for the behavioral health occupations in a more efficient, functional approach.” Senate Comm. on Health & Human Servs., Bill Analysis, Tex. C.S.H.B. 1501, 86th Leg., R.S. (2019) at 1. Yet, the Legislature maintained the examining boards of the respective professions, leaving with each the “responsibility to establish all standards relating to licensing and regulating its profession, including originating all rules related to standards of care and practice.” *Id.*

You tell us that while the Council possesses general rulemaking authority regarding the four professions, Occupations Code subsection 507.153(a) limits its authority. *See* Request Letter at 2. Subsection 507.153(a) requires an examining board for one of the professions to propose certain rules before the Council may adopt them. TEX. OCC. CODE § 507.153(a); *see also id.* § 507.152 (authorizing the Council to “adopt rules as necessary to perform its duties and

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<sup>1</sup>*See* Letter from Darrel D. Spinks, Exec. Dir., Tex. Behav. Health Exec. Council, to Honorable Ken Paxton, Tex. Att’y Gen. at 1 (Feb. 1, 2022), <https://texasattorneygeneral.gov/opinions/opinions/51paxton/rq/2022/pdf/RQ0445KP.pdf> (“Request Letter”).

implement” chapter 507). You ask how to reconcile the limitations on the Council’s rulemaking authority in subsection 507.153(a) with its authority as a state agency to “review and consider for readoption” its rules every four years under the Administrative Procedure Act. *See* Request Letter at 1–2; *see also* TEX. GOV’T CODE § 2001.039.

You describe a scenario where the Council determines it may not legally readopt a rule when the rule relates to one of the subjects requiring proposal by one of the examining boards. *See* Request Letter at 2. You assert that the Council can recommend changes to a particular examining board, but if the board chooses not to amend the rule, the “Council [is] left with no other option but repealing the entire rule[.]” *Id.* You explain that a “complete repeal of a rule may have severe consequences” and question whether the Council may repeal parts of a rule on its own proposal and still comply with Occupations Code section 507.153. *Id.*

### **The Relevant Provisions from the Occupations Code and the Government Code**

Occupations Code subsection 507.153(a) provides:

(a) Unless the rule has been proposed by the applicable board for the profession, the executive council may not adopt under this chapter or Chapter 501, 502, 503, or 505:

(1) a rule regarding:

(A) the qualifications necessary to obtain a license, including limiting an applicant’s eligibility for a license based on the applicant’s criminal history;

(B) the scope of practice of and standards of care and ethical practice for the profession; or

(C) continuing education requirements for license holders;  
or

(2) a schedule of sanctions for violations of the laws and rules applicable to the profession.

TEX. OCC. CODE § 507.153(a). By its terms, subsection 507.153(a) limits the Council’s authority to adopt a rule that relates to one of the subjects listed therein unless an examining board proposes the rule first. *See id.* (titled “Limitation Regarding Certain Rules”). At the same time, under Government Code section 2001.039 the council must “review and consider for readoption each of its rules” every four years. TEX. GOV’T CODE § 2001.039(a), (b). Section 2001.039 provides that the state agency’s review must include “an assessment of whether the reasons for initially adopting the rule continue to exist.” *Id.* § 2001.039(e). As a result of the review, the state agency “shall readopt, readopt with amendments, or repeal a rule . . . .” *Id.* § 2001.039(c).

### Analysis

An administrative agency such as the Council possesses only those powers expressly granted by statute or necessarily implied therefrom. *See Tex. Student Hous. Auth. v. Brazos Cnty. App. Dist.*, 460 S.W.3d 137, 143 (Tex. 2015). While the Occupations Code gives the Council specific authority to adopt certain types of rules, subsection 507.153(a) prohibits the Council from adopting a rule on its own proposal if the rule concerns one of the listed subject matters. *Compare* TEX. OCC. CODE § 507.153(a) (authorizing the Council to adopt rules contingent on proposal by one of the examining boards), *with id.* §§ 507.156 (authorizing the Council to adopt rules on the consequences of a criminal conviction), 507.204 (authorizing the Council to adopt rules concerning the investigation of complaints). And Government Code chapter 2001 does not generally grant additional authority to any agency to adopt rules, but instead presumes the respective state agency's rulemaking authority arises from other law. *See generally* TEX. GOV'T CODE §§ 2001.024(a)(3) (requiring agency's notice of proposed rule to demonstrate its authority to adopt the rule), 2001.033(a)(2) (requiring agency's order adopting the rule to demonstrate its authority to adopt the rule). Accordingly, if the rule under review pursuant to Government Code section 2001.039 relates to one of the subjects listed in Occupations Code subsection 507.153(a), the Council lacks authority to act unless one of the examining boards first proposes action. *See* TEX. OCC. CODE § 507.153(a).

You ask whether the Council could repeal parts of rules that are subject to subsection 507.153(a) on its own proposal as part of its rule review under Government Code section 2001.039. *See* Request Letter at 2. Although Occupations Code subsection 507.153(a) uses the term "adopt," it applies to more than the initial adoption of a rule by virtue of what constitutes a "rule." Chapter 507 does not define "rule," but Government Code chapter 2001 defines the term to include the "amendment or repeal of a prior rule." *Compare* TEX. OCC. CODE § 507.001 ("Definitions"), *with* TEX. GOV'T CODE § 2001.003(6)(B). When the "legislature has used a word in a statute in one sense and with one meaning, and subsequently uses the same word in legislating on the same subject-matter, its meaning in the subsequent statute will ordinarily be the same." *Bush v. Lone Oak Club, LLC*, 601 S.W.3d 639, 647 (Tex. 2020) (quotation mark omitted); *see also* TEX. GOV'T CODE § 311.011(b) (providing that "[w]ords and phrases that have acquired a technical or particular meaning, whether by legislative definition or otherwise, shall be construed accordingly"); 22 TEX. ADMIN. CODE § 881.20(a) (Tex. Behav. Health Exec. Council, Rulemaking by the Executive Council) ("When carrying out its rulemaking functions, the Council shall abide by the requirements of the Administrative Procedure Act found in Chapter 2001 of the Government Code."). Accordingly, a court would likely conclude the limitation in Occupations Code subsection 507.153(a) applies to any amendment or repeal of a prior rule. Absent a proposal from an examining board, subsection 507.153(a) deprives the Council of authority to repeal a rule described therein on the Council's own proposal.

You express concern about the possibility that an examining board could choose not to amend its rules, contrary to the Council's wishes. *See* Request Letter at 2. Yet each examining board has its own duty to propose rules to the Council on the subject matters listed in Occupations Code subsection 507.153(a). *See* TEX. OCC. CODE §§ 501.1515 (requiring the examining board for psychologists to propose rules to the Council), 502.1515 (requiring the examining board for marriage and family therapists to propose rules to the Council), 503.2015 (requiring the examining



board for licensed professional counselors to propose rules to the Council), 505.2015 (requiring the examining board for social workers to propose rules to the Council). This statutory framework reflects the Legislature's intent that the Council and the examining boards cooperate and share responsibility to provide for standards of practice for the professions. *See generally id.* §§ 507.001–.404.

Moreover, to the extent Occupations Code subsection 507.153(a) conflicts with Government Code section 2001.039, subsection 507.153(a) prevails under the legal principles for resolving conflicts in statutes. The Government Code resolves conflicting statutes by favoring a specific statute over a general one and a more recent enacted statute over an earlier enacted one. *See generally* TEX. GOV'T CODE §§ 311.025(a) (providing that the latest-enacted statute ordinarily prevails), 311.026(b) (providing method for resolution of conflict between a general provision and a special provision). Occupations Code subsection 507.153(a) is both the more specific provision and the later-enacted provision. *See* Act of May 22, 2019, 86th Leg., R.S., ch. 768, § 1.001, 2019 Tex. Gen. Laws 2125, 2129 (codified at TEX. OCC. CODE § 507.153); Act of May 25, 1999, 76th Leg., R.S., ch. 1499, § 1.11(a), 1999 Tex. Gen. Laws 5164, 5166 (codified at TEX. GOV'T CODE § 2001.039).

### **Conclusion**

For these reasons, a court would likely conclude that the Council may not readopt, modify, or repeal a rule that concerns one of the subjects in Occupations Code subsection 507.153(a) unless the examining board for the profession first proposes readoption, modification, or repeal. Accordingly, the Council may not repeal part of a rule that concerns one of the subjects in Occupations Code subsection 507.153(a) on its own proposal.

**S U M M A R Y**

Occupations Code chapter 507 creates the Texas Behavioral Health Executive Council to consolidate regulation and administration of four behavioral health professions. Subsection 507.153(a) authorizes the Council to adopt rules on certain subjects related to the practice for the four professions but only if the rule is first proposed by the examining board for the particular profession. To the extent subsection 507.153(a) may conflict with the Council's responsibility as a state agency to review and adopt, readopt, or modify its rules under Government Code section 2001.039, subsection 507.153(a) prevails. A court would likely conclude that the Council may not repeal part of a rule that concerns one of the subjects in Occupations Code subsection 507.153(a) on its own proposal.

Very truly yours,

A handwritten signature in black ink that reads "Ken Paxton". The signature is written in a cursive, flowing style.

KEN PAXTON  
Attorney General of Texas

BRENT E. WEBSTER  
First Assistant Attorney General

LESLEY FRENCH  
Chief of Staff

D. FORREST BRUMBAUGH  
Deputy Attorney General for Legal Counsel

AUSTIN KINGHORN  
Chair, Opinion Committee

CHARLOTTE M. HARPER  
Assistant Attorney General, Opinion Committee



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

February 2, 2022

Mr. Darrel D. Spinks  
Executive Director  
Texas Behavioral Health Executive Council  
333 Guadalupe, Suite 3-900  
Austin, Texas 78701

**Via E-Mail**

Re: Authority of the Behavioral Health Executive Council to repeal rules under Government Code section 507.153(a) (RQ-0445-KP)

Dear Mr. Spinks:

We received your request for an attorney general opinion and have designated it as Request No. 0445-KP. Section 402.042 of the Government Code provides that the Attorney General shall issue an opinion not later than the 180th day after the date that an opinion request is received, unless before that deadline the Attorney General notifies the requesting person in writing that the opinion will be delayed. TEX. GOV'T CODE § 402.042(c)(2). We received your request on February 1, 2022, setting a due date for your opinion of August 1, 2022.

By copy of this letter we are notifying those listed below of your request and inviting them to submit briefing on your questions if they have a special interest or expertise in the subject matter. The Office of the Attorney General accepts briefing from any interested party. If you are aware of other individuals or entities with an interest in this issue, please forward this invitation for briefing to them or let us know, so that we may notify them as soon as possible. We ask that the briefs be submitted by March 4, 2022, to ensure that this office will have adequate time to review and consider arguments relevant to the request from all interested parties. Briefs may be submitted by e-mail to [opinion.committee@oag.texas.gov](mailto:opinion.committee@oag.texas.gov). Please note that briefs and other correspondence are subject to the Public Information Act.

If you have any questions, please do not hesitate to contact me.

Sincerely,

Virginia K. Hoelscher  
Chair, Opinion Committee

VKH/som

Attachment: Request No. 0445-KP

cc: Ms. Misti Nielson, President, Christian Counselors of Texas, Inc.  
Summer Allen, Ph.D., Executive Director, LPC Associates of Texas  
Mr. Will Francis, Executive Director, National Association of Social Workers  
Ms. Ari Hartung, Association Manager, Texas Association for Marriage and Family  
Therapy  
Texas Association of Psychological Associates  
Ms. Kelsey Theis, President, Texas Association of School Psychologists  
Ms. Jan Frieze, Executive Director, Texas Counseling Association  
Ms. Jessica Magee, Executive Director, Texas Psychological Association  
Ms. Jennifer Hill, President, Texas Society for Clinical Social Work  
Ms. Amy Cresap, General Counsel Division, Office of the Governor

# TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL

**MEMBERS OF THE COUNCIL**

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Steven Hallbauer  
Asia Rogers  
Jeanene L. Smith, M.A.  
Christopher S. Taylor, Ph.D.

Darrel D. Spinks  
Executive Director

February 1, 2022

VIA EMAIL TO [OPINION.COMMITTEE@OAG.TEXAS.GOV](mailto:OPINION.COMMITTEE@OAG.TEXAS.GOV)

The Honorable Ken Paxton  
Attorney General of Texas  
Attn: Opinions Committee  
P.O. Box 12548  
Austin, Texas 78711-2548

Dear Mr. Paxton:

The Texas Behavioral Health Executive Council (hereinafter referred to as "the Council") respectfully requests a Texas Attorney General Opinion regarding the rule review process for the Council, as required by Tex. Gov't Code Sec. 2001.039, given the unique nature of the Council's rulemaking authority.

H.B. 1501, 86<sup>th</sup> Leg., R.S. (2019) created the Council and authorized the Council to regulate, administer, and adopt rules for the practice of marriage and family therapy, professional counseling, psychology, and social work. H.B. 1501 transferred rulemaking authority from the Boards for each of these professions to the Council. By way of example, see Tex. Occ. Code Sec. 507.153(c) which states: "[t]he executive council retains authority for final adoption of all rules and is responsible for ensuring compliance with all laws regarding the rulemaking process." See also 22 Tex. Admin. Code Sec. 881.20. But under H.B. 1501 the rulemaking power of the Council is not absolute, because Tex. Occ. Code Sec. 507.153(a) states:

(a) Unless the rule has been proposed by the applicable board for the profession, the executive council may not adopt under this chapter or Chapter 501, 502, 503, or 505:

(1) a rule regarding:

- (A) the qualifications necessary to obtain a license, including limiting an applicant's eligibility for a license based on the applicant's criminal history;
- (B) the scope of practice of and standards of care and ethical practice for the profession;
- (C) continuing education requirements for license holders; or

(2) a schedule of sanctions for violations of the laws and rules applicable to the profession.

**RQ-0445-KP****FILE# ML-49080-22****I.D.# 49080**

Therefore, certain types of rules must first be proposed to the Council by the underlying professional Board before the Council may consider proposing or adopting them. Part of the Council's mission is to provide active state supervision through a controlling number of non-market participants serving on the Council, so if a Board's recommended rule proposal implicates federal antitrust law, by limiting competition, the Council has the authority to conduct a substantive review of the proposal and may reject or recommend modifications. The Council reviews rule proposals for other reasons as well, see Tex. Occ. Code Sec. 507.153(b) and (d) and 22 Tex. Admin. Code Sec. 881.20.

Where this rulemaking process intersects with a potential conflict is when it is applied to the agency review of existing rules as required by Tex. Gov't Code Sec. 2001.039. Under this process a state agency must review its rules every four years by assessing whether the reasons for initially adopting a rule continue to exist and shall then readopt, readopt with amendments, or repeal a rule as the result of such a review.

When the Council conducts a review of all its rules the question arises, if the Council determines that a particular rule, in a category enumerated by Tex. Occ. Code Sec. 507.153(a), cannot legally be readopted the Council can recommend changes to the underlying Board but if the underlying Board chooses not to amend its rules is the Council left with no other option but repealing the entire rule? The complete repeal of a rule may have severe consequences, so would the Council have the ability to repeal parts of a rule sua sponte or would doing so violate Tex. Occ. Code Sec. 507.153(a)? The general purpose of H.B. 1501 was to create an umbrella agency to provide a level of oversight and review for the underlying professional Boards, so the legislative intent seems clear that the Council can exercise some level of review of existing rules but to what extent?

#### **Affected or Interested Groups or Parties**

The Council has identified the following persons or groups likely to be interested in the opinion.

National Association of Social Workers Texas  
810 W. 11<sup>th</sup> Street  
Austin, Texas 78701

Texas Counseling Association  
1204 San Antonio St., Ste. 201  
Austin, Texas 78701

Texas Psychological Association  
P.O. Box 163236  
Austin, Texas 78716

Texas Association of Psychological Associates  
P.O. Box 601374  
Dallas, Texas 75360

Texas Association of School Psychologists  
14070 Proton Rd.  
Dallas, Texas 75244

Texas Association for Marriage and Family  
Therapy  
1401 Lavaca St., Ste. 712  
Austin, Texas 78701

Office of the Governor  
Attn: Regulatory Compliance Division  
P.O. Box 12428  
Austin, Texas 78711-2428


Christian Counselors of Texas  
P.O. Box 377  
Joshua, Texas 76058

LPC Associates of Texas  
2616 Reeves Cir., #B  
Austin, Texas 78741-5624

Texas Society for Clinical Social Work  
909 NE Loop 410, Ste. 730  
San Antonio, Texas 78209

The Council appreciates your review of this matter and looks forward to your opinion. If additional information is required, please contact Patrick Hyde, the Council's General Counsel, at (512) 305-7700.

Respectfully,

A handwritten signature in blue ink, appearing to read "Darrel D. Spinks", is written over the typed name.

Darrel D. Spinks  
Executive Director  
Texas Behavioral Health Executive Council

**TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL**  
**3rd QUARTER MEASURES**  
**FY 2023**

Number of Licenses Renewed (from ald12)

LSSP	484
LIC	684
LPA	92
LPC	3345
MFT	462
LBSW	419
LMSW	1524
LCSW	1570
AP	10

Total	8590
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Number of Licenses Issued (from ald11 and BO)

LPA	7
PLP	52
LIC	78
LSSP	37
LPCA	465
LPC	123
LPC Upgrade	523
MFTA	53
MFT	48
MFT Upgrade	51
LBSW	38
LMSW	406
LCSW	154
LMSW Upgrade	16
LCSW Upgrade	297
TEMP SW	7

Total	2355
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**TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL**  
**3rd QUARTER MEASURES**  
**FY 2023**

Number of Complaints Resolved (from BO report)

LP/LPA	12
LSSP	0
LPC	59
MFT	7
SW	38
Total	116

Percent of Complaint Resolved Within Six Months (from BO report)

1 <sup>st</sup> Qtr	125/209 =	60%
2 <sup>nd</sup> Qtr	88/167 =	53%
3 <sup>rd</sup> Qtr	54/116 =	47%
4 <sup>th</sup> Qtr		
YTD	267/492 =	55%

Percent of Complaints Resolved resulting in Disciplinary Action (from BO report)

1 <sup>st</sup> Qtr	25/209 =	12%
2 <sup>nd</sup> Qtr	29/167 =	18%
3 <sup>rd</sup> Qtr	31/116 =	27%
4 <sup>th</sup> Qtr		
YTD	85/492 =	18%

Average Time for Complaint Resolution (from BO report)

1 <sup>st</sup> Qtr	60,278 days to resolve 209 complaints =	288.42 days
2 <sup>nd</sup> Qtr	51,760 days to resolve 167 complaints =	309.94 days
3 <sup>rd</sup> Qtr	31,462 days to resolve 116 complaints =	271.22 days
4 <sup>th</sup> Qtr		
YTD	143,500 days to resolve 492 complaints =	291.67 days

Average Time for Application Processing (from BO report) (**Bold averages only**)

1 <sup>st</sup> Qtr	86,169 days to process 2,306 applications =	37.37 days
2 <sup>nd</sup> Qtr	82,086 days to process 2,296 applications =	35.76 days
3 <sup>rd</sup> Qtr	77,670 days to process 2,319 applications =	33.50 days
4 <sup>th</sup> Qtr		
YTD	245,925 days to process 6,921 applications =	35.54 days

Calculations reviewed by: \_\_\_\_\_

Date: \_\_\_\_\_

<b>LPA Initial</b>	<b>671 days to process 20 applications =</b>	<b>33.55</b>
LPA Final	1676 days to process 7 applications =	239.43
<b>LIC Initial</b>	<b>3425 days to process 81 applications =</b>	<b>42.29</b>
LIC Final	12088 days to process 52 applications =	232.47
<b>LSSP</b>	<b>1081 days to process 37 applications =</b>	<b>29.22</b>
<b>LPC Initial</b>	<b>7154 days to process 123 applications =</b>	<b>58.17</b>
<b>LPCA Initial</b>	<b>16274 days to process 465 applications =</b>	<b>35.00</b>
<b>LPC Upgrade</b>	<b>4303 days to process 523 applications =</b>	<b>8.23</b>
<b>MFT License</b>	<b>4991 days to process 48 applications =</b>	<b>103.98</b>
<b>MFTA License</b>	<b>7395 days to process 53 applications =</b>	<b>139.53</b>
<b>MFTA Upgrade</b>	<b>433 days to process 51 applications =</b>	<b>8.49</b>
<b>SW License</b>	<b>7865 days to process 358 applications =</b>	<b>21.97</b>
<b>SW OOS License</b>	<b>17233 days to process 240 applications =</b>	<b>71.81</b>
<b>SW Upgrade</b>	<b>6672 days to process 313 applications =</b>	<b>21.32</b>
<b>Temp SW License</b>	<b>173 days to process 7 applications =</b>	<b>24.72</b>

- Those in **BOLD** are the applications we have more control over (i.e. we are not waiting for them to take and pass a national exam).
- Highlighted **MFTA License** measure will be removed from those in **BOLD** effective FY24, as we no longer have any control over when these applicants take the MFT exam.

**TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL  
ANNUAL MEASURES  
FY 2023**

Number of Jurisdictional Complaints Received (from BO report)	153
Number of Complaints Pending (from BO report)	385
Closed	2
Investigation Completed	73
Under Investigation	310

Percent of Licensees With No Recent Violations

<i>Total</i>	<i>295 disciplinary actions</i>
<i>Less duplicates</i>	<i>-58 duplicates</i>
<i>Total unduplicated</i>	<i>237 disciplinary actions</i>

*Number of individuals (unduplicated) licensed as of 8/31/2021:*    74,233

$$74,233 - 237 = 73,996$$

$$73,996/74,233 = 99.68\%$$

Recidivism Rate

<i>Individuals with disciplinary actions FY 19 – FY 21</i>	<i>237</i>
<i>Individuals with 2 or more disciplinary actions</i>	<i>14</i>

$$14/237 = 5.91\%$$

Calculation Reviewed by: \_\_\_\_\_

Date: \_\_\_\_\_

**3rd QUARTER PERFORMANCE MEASURES**  
**FISCAL YEAR 2023**

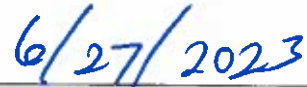
Submitted to the  
Governor's Office of Budget and Planning  
and the Legislative Budget Board

by

**Texas Behavioral Health Executive  
Council**

  
Executive Director

June 27, 2023

  
Date

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
<u>1-1-1 LICENSING</u>					
1 # NEW LICENSEES ISSUED					
Quarter 1	7,800.00	2,404.00	2,404.00	30.82 % *	1,560.00 - 2,340.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would issue 7,800 new licenses per fiscal year, or 1,950 per quarter. During the first quarter of FY 23, the agency exceeded its target by issuing 2,404 for the quarter.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of new licenses issued each quarter continue to average around 2,400 due to the dedication and efficiency of the licensing staff and the significant workforce shortage of behavioral health providers. The Council believes that its initial projection was too low, and has requested this target be increased to 9,300 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

**Efficiency/Output Measures with Cover Page and Update Explanation**  
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Automated Budget and Evaluation System of Texas (ABEST)

6/27/2023 2:38:02PM

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
1 # NEW LICENSEES ISSUED					
Quarter 2	7,800.00	2,353.00	4,757.00	60.99 % *	3,510.00 - 4,290.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would issue 7,800 new licenses per fiscal year, or 1,950 per quarter. During the second quarter of FY 23, the agency exceeded its target by issuing 2,353 for the quarter.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of new licenses issued each quarter continue to average around 2,400 due to the dedication and efficiency of the licensing staff and the significant workforce shortage of behavioral health providers. The Council believes that its initial projection was too low, and has requested this target be increased to 9,300 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Output Measures****1 # NEW LICENSEES ISSUED**

Quarter 3	7,800.00	2,355.00	7,112.00	91.18 % *	5,460.00 - 6,240.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would issue 7,800 new licenses per fiscal year, or 1,950 per quarter. During the third quarter of FY 23, the agency exceeded its target by issuing 2,355 for the quarter.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of new licenses issued each quarter continue to average around 2,400 due to the dedication and efficiency of the licensing staff and the significant workforce shortage of behavioral health providers. The Council believes that its initial projection was too low, and has requested this target be increased to 9,300 in its FY24-FY25 LAR.

**2 # LICENSE RENEWALS**

\* Varies by 5% or more from target.

**Efficiency/Output Measures with Cover Page and Update Explanation**  
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Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Output Measures**

**2 # LICENSE RENEWALS**

<b>Quarter 1</b>	44,000.00	7,213.00	7,213.00	16.39 % *	8,800.00 - 13,200.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would renew 44,000 licenses per fiscal year, or 11,000 per quarter. During the first quarter of FY 23, the agency fell short of its target, renewing 7,213 licenses.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

All license renewals are required to be submitted online and are approved automatically by the online licensing system, unless the licensee is under audit or the agency hasn't received the licensee's fingerprint criminal history results. Licensing staff have little control over how many licensees will choose to renew their license, and therefore how many renewals get processed. The Council believes that its initial projection was too high, and has requested this target be lowered to 29,000 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.



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Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Output Measures**

**2 # LICENSE RENEWALS**

<b>Quarter 2</b>	44,000.00	7,583.00	14,796.00	33.63 % *	19,800.00 - 24,200.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would renew 44,000 licenses per fiscal year, or 11,000 per quarter. During the second quarter of FY 23, the agency fell short of its target, renewing 7,583 licenses.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

All license renewals are required to be submitted online and are approved automatically by the online licensing system, unless the licensee is under audit or the agency hasn't received the licensee's fingerprint criminal history results. Licensing staff have little control over how many licensees will choose to renew their license, and therefore how many renewals get processed. The Council believes that its initial projection was too high, and has requested this target be lowered to 29,000 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
2 # LICENSE RENEWALS					
Quarter 3	44,000.00	8,590.00	23,386.00	53.15 % *	30,800.00 - 35,200.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would renew 44,000 licenses per fiscal year, or 11,000 per quarter. During the third quarter of FY 23, the agency fell short of its target, renewing 8,590 licenses.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

All license renewals are required to be submitted online and are approved automatically by the online licensing system, unless the licensee is under audit or the agency hasn't received the licensee's fingerprint criminal history results. Licensing staff have little control over how many licensees will choose to renew their license, and therefore how many renewals get processed. The Council believes that its initial projection was too high, and has requested this target be lowered to 29,000 in its FY24-FY25 LAR.

2-1-1 ENFORCEMENT

## 1 COMPLAINTS RESOLVED

\* Varies by 5% or more from target.

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Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
1 COMPLAINTS RESOLVED					
Quarter 1	1,200.00	209.00	209.00	17.42 % *	240.00 - 360.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would resolve 1,200 complaints per fiscal year, or 300 per quarter. During the first quarter of FY 23, the agency fell short of its target by resolving 209 complaints.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

At the beginning of FY 21, the agency inherited over 1,300 pending complaints. Due to the dedication and efficiency of the enforcement and legal staff, the pending complaints at the end of the first quarter of FY 23 is down to 413. Additionally, the agency is projecting to receive around 600 complaints this year. The Council has requested this target be lowered to 400 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Output Measures**

## 1 COMPLAINTS RESOLVED

Quarter 2	1,200.00	167.00	376.00	31.33 % *	540.00 - 660.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would resolve 1,200 complaints per fiscal year, or 300 per quarter. During the second quarter of FY 23, the agency fell short of its target by resolving 167 complaints.

## HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

At the beginning of FY 21, the agency inherited over 1,300 pending complaints. Due to the dedication and efficiency of the enforcement and legal staff, the pending complaints at the end of the second quarter of FY 23 is down to 347. Additionally, the agency is projecting to receive around 600 complaints this year. The Council has requested this target be lowered to 400 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Output Measures****1 COMPLAINTS RESOLVED**

Quarter 3	1,200.00	116.00	492.00	41.00 % *	840.00 - 960.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that it would resolve 1,200 complaints per fiscal year, or 300 per quarter. During the third quarter of FY 23, the agency fell short of its target by resolving 116 complaints.

## HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

At the beginning of FY 21, the agency inherited over 1,300 pending complaints. Due to the dedication and efficiency of the enforcement and legal staff, the pending complaints at the end of the third quarter of FY 23 is down to 385. Additionally, the agency is projecting to receive around 600 complaints this year. The Council has requested this target be lowered to 400 in its FY24-FY25 LAR.

**2 COMPLAINTS PENDING**

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
2 COMPLAINTS PENDING					
Quarter 1	800.00	413.00	413.00	51.63 % *	760.00 - 840.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that there would be 800 complaints pending during FY 2023. During the first quarter of FY 23, the agency bested this measure by only having 413 complaints pending.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of complaints pending at the beginning of FY 21 was over 1,300. This number has now decreased to 413 due to the dedication and efficiency of the enforcement and legal staff. Additionally, the agency is projecting to only receive around 600 complaints this year. Due to these two factors, the Council believes that its initial projection of 800 complaints pending is too high for FY23, and has requested this target be lowered to 500 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

**Efficiency/Output Measures with Cover Page and Update Explanation**  
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Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
2 COMPLAINTS PENDING					
Quarter 2	800.00	347.00	347.00	43.38 % *	760.00 - 840.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that there would be 800 complaints pending during FY 2023. During the second quarter of FY 23, the agency bested this measure by only having 347 complaints pending.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of complaints pending at the beginning of FY 21 was over 1,300. This number has now decreased to 347 due to the dedication and efficiency of the enforcement and legal staff. Additionally, the agency is projecting to only receive around 600 complaints this year. Due to these two factors, the Council believes that its initial projection of 800 complaints pending is too high for FY23, and has requested this target be lowered to 500 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Output Measures</b>					
2 COMPLAINTS PENDING					
Quarter 3	800.00	385.00	385.00	48.13 % *	760.00 - 840.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected that there would be 800 complaints pending during FY 2023. During the third quarter of FY 23, the agency bested this measure by only having 385 complaints pending.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The number of complaints pending at the beginning of FY 21 was over 1,300. This number has now decreased to 385 due to the dedication and efficiency of the enforcement and legal staff. Additionally, the agency is projecting to only receive around 600 complaints this year. Due to these two factors, the Council believes that its initial projection of 800 complaints pending is too high for FY23, and has requested this target be lowered to 500 in its FY24-FY25 LAR.

**Efficiency Measures**1-1-1 LICENSING

## 1 AVG TIME TO PROCESS APP (DAYS)

\* Varies by 5% or more from target.



**Efficiency/Output Measures with Cover Page and Update Explanation**  
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Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Efficiency Measures**

1 AVG TIME TO PROCESS APP (DAYS)

Quarter 1	50.00	37.37	37.37	74.74 % *	47.50 - 52.50
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average issuance time for licenses would be 50 days. In the first quarter of FY 23, the agency bested this measure by having an average license issuance time of only 38 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for license issuance for FY 22 was 46 days. This number has now decreased to 38 days, due to the dedication and efficiency of the licensing staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be increased to 55 days in its FY24-FY25 LAR based upon baseline funding.

\* Varies by 5% or more from target.

**Efficiency/Output Measures with Cover Page and Update Explanation**  
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Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Efficiency Measures**

1 AVG TIME TO PROCESS APP (DAYS)

Quarter 2	50.00	35.76	36.57	73.14 % *	47.50 - 52.50
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average issuance time for licenses would be 50 days. In the second quarter of FY 23, the agency bested this measure by having an average license issuance time of only 36 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for license issuance for FY 22 was 46 days. This number has now decreased to 37 days, due to the dedication and efficiency of the licensing staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be increased to 55 days in its FY24-FY25 LAR based upon baseline funding.

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Efficiency Measures</b>					
1 AVG TIME TO PROCESS APP (DAYS)					
Quarter 3	50.00	33.50	35.54	71.08 % *	47.50 - 52.50

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average issuance time for licenses would be 50 days. In the third quarter of FY 23, the agency bested this measure by having an average license issuance time of only 34 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for license issuance for FY 22 was 46 days. This number has now decreased to 36 days, due to the dedication and efficiency of the licensing staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be increased to 55 days in its FY24-FY25 LAR based upon baseline funding.

2-1-1 ENFORCEMENT

1 AVG TIME/COMPLAINT RESOLUTION

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
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**Efficiency Measures****1 AVG TIME/COMPLAINT RESOLUTION**

Quarter 1	700.00	288.42	288.42	41.20 % *	665.00 - 735.00
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Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average processing time for complaints would be 700 days. In the first quarter of FY 23, the agency bested this measure by having an average processing resolution time of 289 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for complaint resolution for FY 22 was 581 days. This number has now decreased to 289 days, due to the dedication and efficiency of the enforcement and legal staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be lowered to 625 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Efficiency Measures</b>					
1 AVG TIME/COMPLAINT RESOLUTION					
Quarter 2	700.00	309.94	297.98	42.57 % *	665.00 - 735.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average processing time for complaints would be 700 days. In the second quarter of FY 23, the agency bested this measure by having an average processing resolution time of 310 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for complaint resolution for FY 22 was 581 days. This number has now decreased to 298 days, due to the dedication and efficiency of the enforcement and legal staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be lowered to 625 in its FY24-FY25 LAR

\* Varies by 5% or more from target.

Agency code: 510

Agency name: Behavioral Health Executive Council

Type/Strategy/Measure	2023 Target	2023 Actual	2023 YTD	Percent of Annual Target	Target Range
<b>Efficiency Measures</b>					
1 AVG TIME/COMPLAINT RESOLUTION					
Quarter 3	700.00	271.22	291.67	41.67 % *	665.00 - 735.00

Explanation of Variance: FACTORS CAUSING THE VARIANCE:

In its 2022-2023 LAR, the Council had to project targets that were representative of all four regulatory programs. These projections were based on limited information from the three HHSC programs, as these programs had no performance measures to account for under HHSC. For this specific measure, the Council projected the average processing time for complaints would be 700 days. In the third quarter of FY 23, the agency bested this measure by having an average processing resolution time of 272 days.

HOW THE AGENCY PLANS TO DEAL WITH THE VARIANCE:

The average time for complaint resolution for FY 22 was 581 days. This number has now decreased to 292 days, due to the dedication and efficiency of the enforcement and legal staff. The Council believes that this target will continue to be met or beat assuming the Council is able to maintain full or close-to-full staffing levels. The Council has requested this target be lowered to 625 in its FY24-FY25 LAR.

\* Varies by 5% or more from target.

## Texas Statewide Health Coordinating Council Agenda

June 8, 2023 - 10:00 am

### Agenda

1. Presiding member's welcome and introductions.
2. Establish a quorum – roll call and possible action to approve excused absences.
3. Statewide Health Coordinating Council (SHCC) discussion and possible action to approve March 2, 2023, Meeting Minutes. [Approved by vote](#)
4. Presentation by Anja Taylor, Texas Homeless Data Sharing Network Project Manager at The Homeless Network on the implementation of a statewide homeless data-sharing network to assist in emergency situations. [Presentation and Q&A notes, beginning on page 4](#)
5. Presentation by Dr. Jennie Simpson, Associate Commissioner and State Forensic Director, Office of Forensic Coordination, Health and Human Services Commission, on the behavioral health services available to justice-involved individuals. [Presentation and Q&A, beginning on page 13](#)
6. Update on implementation of 2025-2026 Update to the State Health Plan. [See presentation, beginning on page 24](#)

#### Discussion on Update to Health Plan:

##### *Topics on Current SHP*

- Access to Care
- Rural Health
- Mental Health and Behavioral Health Care Workforce
- Teleservices and Technology
- Health literacy

##### *Topics brought up during the meeting (potential topics for the update)*

- Food deserts and access to healthy food options.
- Social drivers of health: access to food, housing, education.
- Oral health.
- Mental health for justice-involved individuals and prevention of incarceration.
- Pharmacy drugs costs and coverage.
- Effects of Long Covid-19 in a post-acute health services industry. Guidance in overregulation.
- Fentanyl: children.
- Community-wide education and services to address addiction.
- Nursing workforce: retirement, changes in nursing colleges funding.
- Shortage of PCPs.
- Shortage of pediatric physicians in metro areas.
- Vaccination status of pediatric patients after 2020.
- Individuals with disabilities access to care.

##### *Bills topics*

- Health literacy plan

##### *Presentation on Rural Health: Questions for presenter*

[Invited members to advocate for particular topics of interest, such as Fentanyl crisis](#)

[Dr. Curry - will create poll/survey to members to select top five – results to be presented at Oct mtg](#)

[Priority social drivers of health \(dependent on zip code\) – one topic that all have ack'd impact on](#)

health

Dr. Sparks: how much to we put forward for next legislative session? Do we need to focus on fewer to ensure they make it to finish line

Some topics on our list have been covered – increase in residency, trauma training, etc – significant funding out of this last regular session. Congrats on HB12 (not signed by Gov yet)! Council has discussed this for 8 years. We can't drop things, because some of these topics require a great deal of time. Some things just never get out of committee. It was a very busy session. Rural health continues to be a problem in our state. All of these problems are really ongoing – nothing is really solved or resolved. This time there was the advantage of a surplus of funding.

Dr. Sparks – can we get an idea of what we have accomplished? Then, focus our efforts, maybe over several sessions. Just trying to think methodically how we can move things forward.

Dr. Curry – will work on info re bills that have made it through

One of the issues is Health Literacy – Leg pushes it back to the Council – so we may want to develop a plan, take a different approach on this topic. Health Literacy has become even more of a problem over time.

7. SHCC agency representatives' reports.

- a. Texas Health and Human Services Commission
- b. Texas Department of State Health Services See DSHS report, beginning on page 27  
Aelia Akhtar, Office of Public Health Policy, DSHS
- c. Texas Higher Education Coordinating Board – Elizabeth Mayer –  
in the process of assessing legislative session, budget.  
Grants, efforts to address shortage of first-time residency participants –  
Family Practice Residency program – funding has fluctuated in past several years  
Joint Admissions Medical program – funding relatively stable  
Emergency and Trauma Care Partnership program – funding has declined in recent years,  
but increased for next biennium  
Preceptor program (family, general, general pediatrics) – funding slightly increased  
Texas Child Healthcare Consortium – (UT System has executive committee) funding  
greatly increase  
Professional Nursing Shortage Program – increased funding  
Nursing Allied Health – to address Texas Nursing shortage, funded by tobacco lawsuit  
Minority Health Research Program - funded by tobacco lawsuit  
NEW Forensic Psychiatry Program  
NEW Rural Residency Funding Program  
NEW Nursing Innovation Grant Program  
NEW Nursing Scholarships (SB25)  
Education Loan Repayment Programs  
HB4315 and SB2123 Tyler participate in JAMP  
HB3871 and SB1516 Sam Houston – osteopathic med

8. Update on SHCC representation on the Texas Health and Human Services Commission E-Health Advisory Committee Ken Holland – eHealth Advisory Committee – hasn't met yet

9. Health Professions Resource Center and SHCC coordinator's report Dr. Curry  
Conference last month – ideas for research



Fact sheets for 40 health professions completed – online

Supply tables completed – online

Working with Nursing to completed projections re workforce shortages

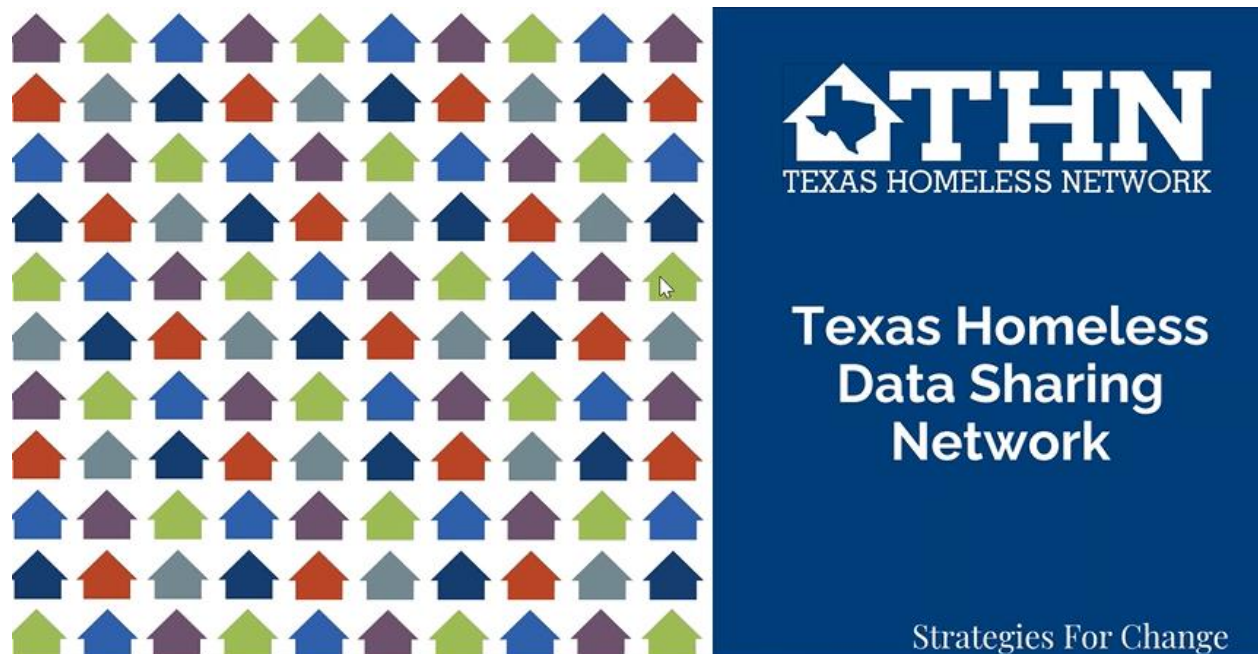
Working to create dashboard on website

10. Texas Center for Nursing Workforce Studies report – Cheyenne Neese - completed survey reports  
implementing dashboard  
reconvene task force on violence in nurse workplace  
working to update supply and demand projection for nurses  
working to kick-off 2024 employer nurse-staff surveys
11. Administrative items and next steps – Dr. Curry: All members needed for Oct 5 mtg
12. Tentative SHCC meeting dates: October 5, 2023 and February 29, 2024
13. Public comment and adjourn  
No public comment  
adjourned 12:52 p.m.

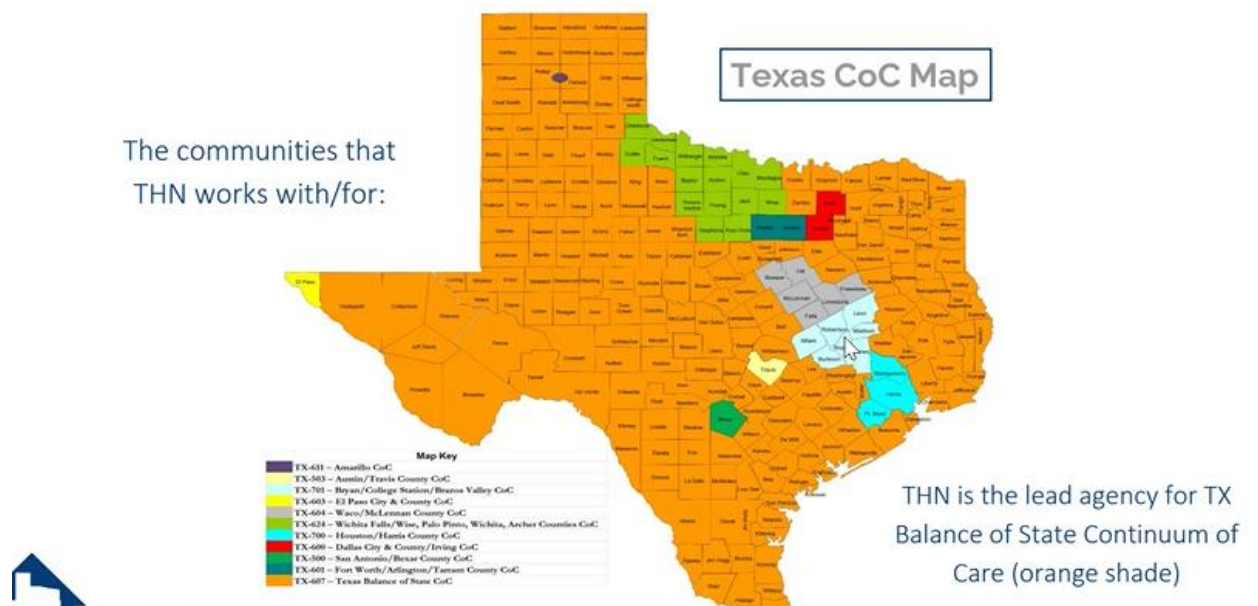
Note: The SHCC may act upon any agenda item.

For Additional Information Contact: Lissette Curry at 512-696-3881 or [SHCC@dshs.texas.gov](mailto:SHCC@dshs.texas.gov),  
Department of State Health Services, 1100 West 49th Street, Austin, Texas 78756.

#### 4. The Homeless Network



### About Us: Introduction to Texas Homeless Network (THN)



# Hurricane Harvey: Where It All Started

In 2017, Hurricane Harvey demonstrated the need for more efficient communication and collaboration between Texas' homelessness **Continuums of Care (CoCs)**. As people experiencing homelessness were being displaced and moving to inland regions of Texas, there were no effective processes or tools in place to share their information or identify housing shelter, and service opportunities for them from region to region. This was especially problematic for those actively involved in treatment, training, or other case management interventions to maintain or improve health, employment, or other beneficial outcomes.



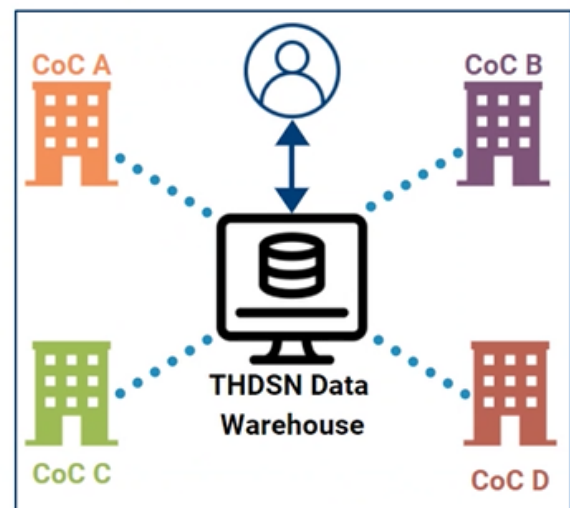
Data sharing Network for Homelessness w TDEM and 11 homeless response systems

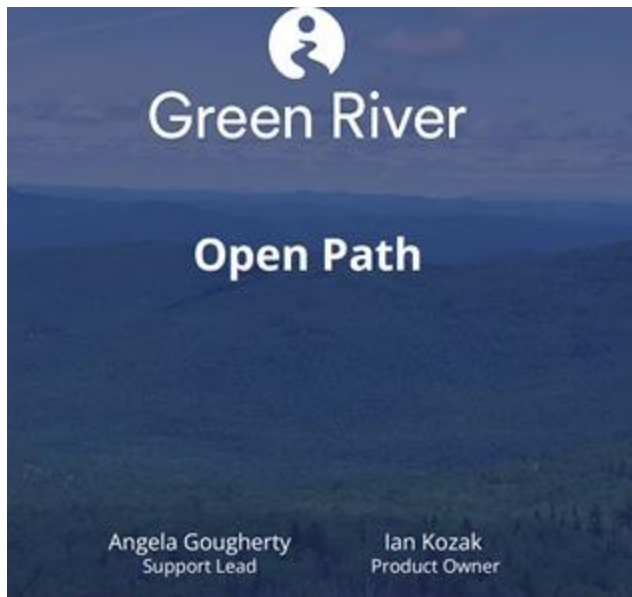
Goal is to have case managers use data to help their clients

Future goal is to have health care use data to homeless reconnect with health care

## Design Model

Until now, there was no way for **Continuums of Care (CoCs)** to share data across their geographic boundaries easily. The Texas Homeless Data Sharing Network (THDSN) is designed to connect the databases from each of Texas' eleven CoCs into one information-sharing network. The network will give service providers, faith communities, local governments, and anyone working to prevent and end homelessness the ability to access housing and resources across the geographical borders of homeless response systems. The THDSN will also allow Texas' statewide homelessness data to be analyzed in real-time for the first time which has significant advantages in terms of research and strategic planning that may impact policy change at the state level.





**Data integration platform that...**

- Combines data from across CoCs and HMIS installations.
- Supports inclusion of additional data (medical records, Medicaid history, criminal justice,...)

**Provides...**

- Aggregate analysis and reporting
- Coc and project-level reporting
- Shared client record information for care coordination and homeless verification

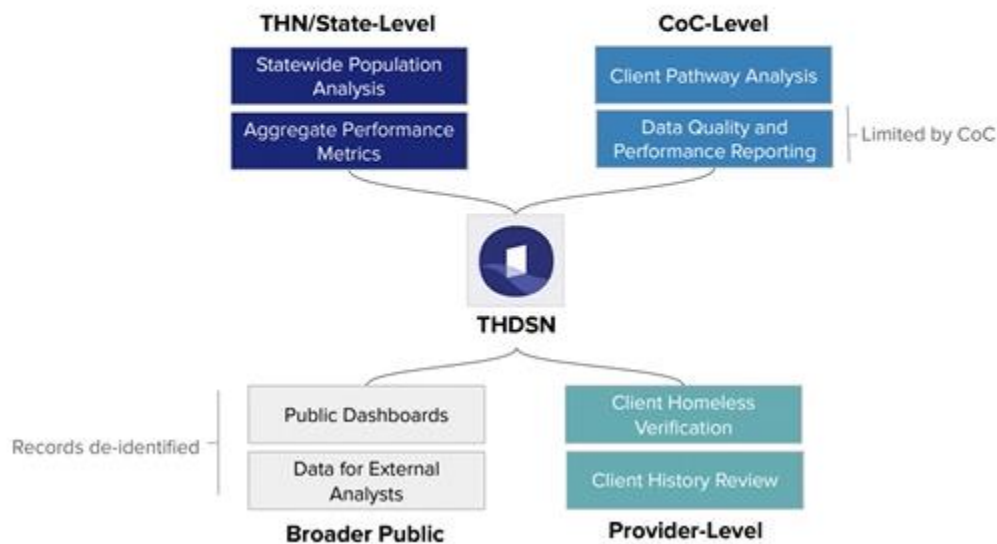


## Open Path System Contributors



Works with communities to adapt systems to the community's needs

## THDSN Potential System Functions (HMIS Data)



## PROJECT STATUS

### CoC Cohort 1

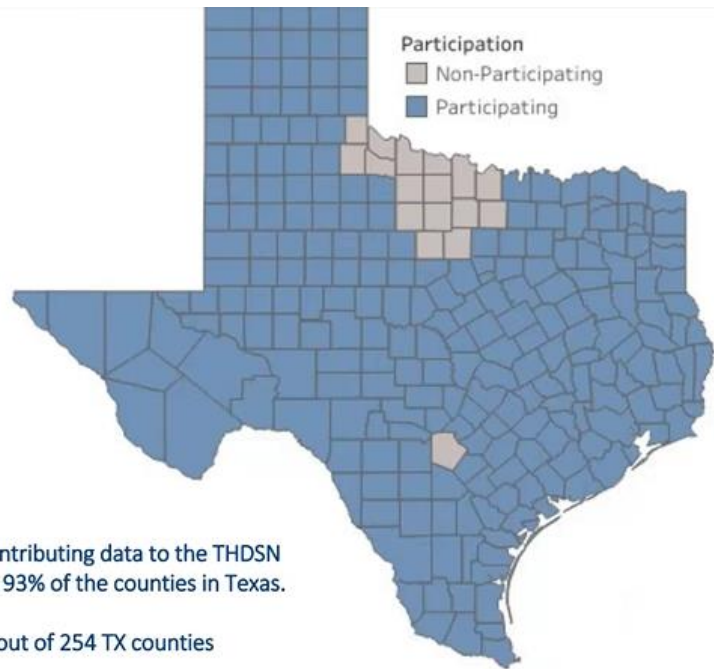
- Texas Balance of State CoC
- Houston/Harris County CoC
- Fort Worth/Arlington/Tarrant County CoC

### CoC Cohort 2

- Dallas City & County/Irving CoC
- Waco/McLennan County CoC
- Amarillo CoC

### CoC Cohort 3

- El Paso City/El Paso County CoC
- Austin/Travis County CoC
- Brazos Valley CoC



The nine CoCs currently contributing data to the THDSN Data Warehouse represent 93% of the counties in Texas.



THDSN covers 237 out of 254 TX counties

CoCs – Continuum of Cares – upload data to system

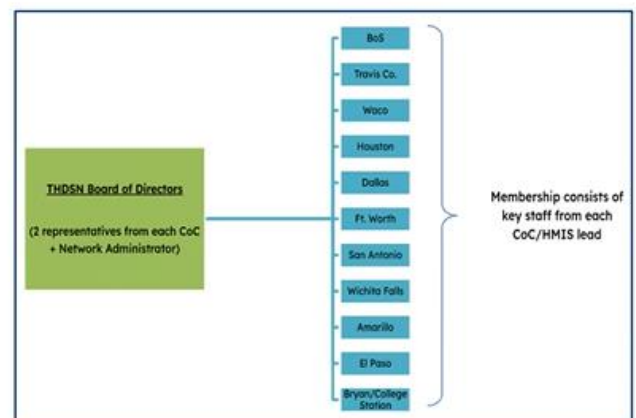
Case managers collect data

Working with San Antonio and Wichita Falls area to participate

Each CoC is unique with varying capacity

## Governance Structure

The THDSN Board, in collaboration with THN, drives the development, implementation, operation, and policy direction of the Data Warehouse. In addition, the Board conducts research and analytics on the data collected and maintained in support of policy initiatives with respect to homelessness in Texas. Board members also serve as liaisons between THN and the counties and sub-populations they represent. The Board meets on the first Wednesday of every month via web conference (Zoom) and as needed.



Texas Homeless Network collaborates with lead representative for each CoC

THN governed by delegates from CoC – one member with “lived experience with homelessness”

## Integrate Data Systems

People experiencing homelessness often interact with multiple agencies – housing, healthcare, law enforcement, and non-profits providing support services.

Those organizations rarely share information with each other – a challenge that, if addressed, can be a game changer in the national efforts to prevent and combat homelessness.

Utilizing data to target resources where the needs are is cost-efficient, data removes the guesswork



Working with healthcare system – currently Superior Health Plan – and THSA state health information exchange agency to identify whether homeless client is insured. This better coordinates care and reduces reliance on public health services (fewer ER visits, etc)

## Project Expansion Efforts

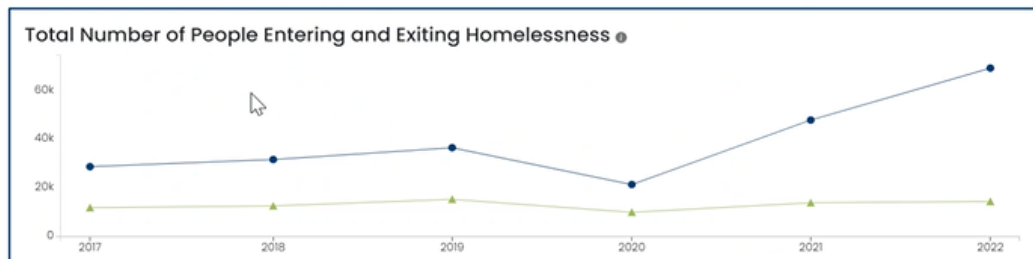
Through data sharing with the Texas Health Services Authority (THSA), the state's Health Information Exchange agency, as well as Managed Care Organizations (MCOs), Texas Homeless Network and our CoC partners will be able to identify, house, and provide supportive services for high-utilizers of both healthcare and homeless systems.

### Potential Outcomes of Data Sharing

- Supportive housing brings down healthcare costs for high-utilizers of healthcare and homeless systems.
- Reduction in inappropriate, non-emergency Emergency Department (ED) use.
- Meaningful difference in health functional status.
- Enhance care coordination services at the local level.



## Data Dashboard



### State of Texas Overall Map

This statewide map shows the number of homeless individuals whose data is uploaded to the Texas Homeless Data Sharing Network (THDSN) on a quarterly basis. The percentage category of the selected county represents the total persons in the system during the selected timeframe. To promote anonymity of clients, the percentages are grouped by categories instead of county.

#### Choose Time Period

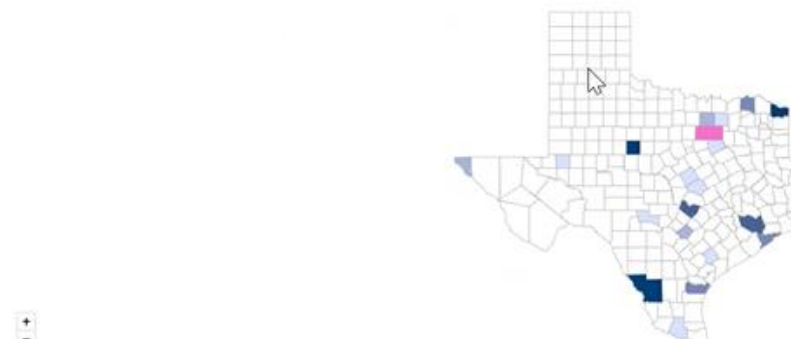
Select a quarter with the slider; this selection affects all charts below.



#### Where is the need?

Choose a Population Group

All Homeless



Interactive maps and charts on website.

Eric Samuels (he/him) (Guest) 10:33 AM

<https://www.thn.org/thdsn/data/>



#### THDSN Data Dashboard

Texas Homeless Data Sharing Network Data Dashboard The Statewide Homelessness Report or Data Dashboard...

[www.thn.org](http://www.thn.org)



# Questions?

## Contact Information

- Website: <https://www.thn.org/thdsn/>
- Data Dashboard: <https://www.thn.org/thdsn/data/>

## Eric Samuels

President & CEO, THN

[eric@thn.org](mailto:eric@thn.org)

## Anja Taylor

THDSN Project Manager

[anja@thn.org](mailto:anja@thn.org)

## How do you define “homeless”?

- Data collected by case managers and entered into HMIS
- HUD dictates the data elements captures through the intact process
- CoCs upload in HMIS, HMIS data is transferred to THN Warehouse

HUD definition for homeless is used. Data is not collected on victims of domestic violence. Data on “doubled-up” families is not collected (may be defined as “homeless” by school).

Eric Samuels (he/him) (Guest) 10:42 AM

[Definition of Homelessness we use HEARTH "Homeless" Definition Final Rule](#)

## How do you maintain privacy?

All homeless response clients have release for data collection and sharing

**Galveston has large number of families who are homeless, but attending school. Not capturing that population?**

- THN working with Galveston school district
- School district does collect data on “doubled-up”

## Do you collaborate with veterans?

- Working with Texas Veterans Commission
- Participating in monthly calls

## How is this impacting ER visits and care for these individuals?

- In partnership with Superior Health Plan, who has access to recent ER visits and any other medical services for that individual. Reviewed each client's history to determine how THN could assist/intervene. Early in collaboration with Superior Health Plan, so looking forward to future reporting.

We were hoping this past legislative session would expand system, in particular getting homeless enrolled in Medicaid. We have worked with multiple healthcare systems, but no formal agreement as we have with Superior Health Plan.

Models in other states have moved in the direction of connecting homeless to Medicaid coverage as well as private coverage. Texas is complex due to number of health care systems working in Texas.

#### **How is information from rural areas collected? (Big Springs)**

- Working with local agencies to enter data in HMIS
- -Some local agencies are not participating or collecting this data
- Recommend local communities to form a homeless coalition model: faith community, VA, local government, local law enforcement – we would love to serve as resource for that.

#### **Homeless callers to Police for “company” “companionship” – how could coalition help in Huntsville?**

- Good Shepherd Mission
- Scarce resources – bring in faith community, Americorp Vista member (university students)
- Some people in Huntsville/Walker County move there to be near TDCJ inmates

Dr. Cheryl Sparks 10:59 AM

Include Howard College in that idea. Big Spring has a federal prison and has had private prisons.

Anja Taylor (Guest) 11:00 AM

Eric Samuels: [eric@thn.org](mailto:eric@thn.org)

Anja Taylor (THDSN Project Manager): [anja@thn.org](mailto:anja@thn.org)

#### **Data for home-insecurity among school-age children**

- Working with Texas Education Agency in collecting data on annual basis

- end THN presentation-

## 5. The Behavioral Health Services Available to Justice-Involved Individuals






# Agenda



- Office of Forensic Coordination
- People with Mental Health (MH) and Substance Use Disorders (SUD) in the Criminal Justice System (CJS)
- Principles of Community-Based Behavioral Health Services for Justice-Involved Individuals
- The Sequential Intercept Model (SIM)
- Statewide Behavioral Health Strategic Plan, featuring the Strategic Plan for Diversion, Community Integration and Forensic Services
- Texas Behavioral Health and Justice Technical Assistance Center

## Office of Forensic Coordination

Improve forensic service coordination and prevent and reduce justice involvement for people with MI and SUD through statewide and cross-agency initiatives that improve coordination and collaboration among state and local leaders.

-  State and Local Planning
-  Policy and Staffing for the Joint Committee on Access to Forensic Services
-  Training and Technical Assistance
-  Research and Data Analysis
-  Engagement, Education, and Coordination

3

Forensic Services are for people found incompetent to stand trial, “not guilty” by reason of insanity, and incarcerated individuals with mental health conditions.

## Mental Illness and Substance Use in Jails

### Key Statistics

- 5** Percent of the **Texas population** has a Serious Mental Illness (SMI).
- 39** Percent of **people booked into Texas county jails** who have been in contact with the public mental health system in the last three years.
- 72** Percent of people with SMI in jail who have a **co-occurring substance use disorder** (national estimates)
- 92** **Prevalence of trauma** (experience of assault or sexual abuse) among people with Serious Mental Illness in Jail (national estimates)

Texas Statewide Behavioral Health Strategic Plan  
Texas Law Enforcement Telecommunications System Continuity of Care Query, 2021  
Steadman, Osher, Robbins, Case, & Samuels, 2009; Teplin, 1990  
Teplin, Abram, & McClelland, 1996; Abram, Teplin, & McClelland, 2003

4

## Consequences of Justice Involvement for People with Mental Illness



- Individuals with mental illness tend to experience longer and more punitive criminal justice involvement



- Services provided in jails and prisons often lack the therapeutic environment needed to foster recovery



- Jails and prisons may lack the resources to treat mental illness, which can contribute to worsened physical health



- Jails and prisons may lack the resources to support continuity of care at booking and release

Substance Abuse and Mental Health Services Administration: Principles of Community-based Behavioral Health Services for Justice-involved Individuals: A Research-based Guide. HHS Publication No. SMA19-5097. Rockville, MD: Office of Policy, Planning, and Innovation. Substance Abuse and Mental Health Services Administration, 2019.

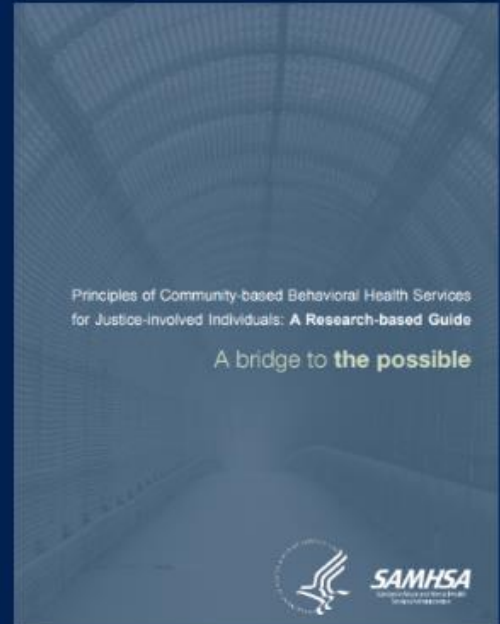


# Principles of Community-Based Care for Justice Involved People

Community providers:

1. Know the criminal justice system
2. Collaborate with criminal justice professionals
3. Use evidence-based and promising practices
4. Address criminogenic risk
5. Provide integrated care
6. Apply a trauma-informed lens
7. Connect clients with social services and supports
8. Address disparities in the behavioral health and criminal justice systems

Substance Abuse and Mental Health Services Administration: Principles of Community-based Behavioral Health Services for Justice-involved Individuals: A Research-based Guide, HHS Publication No. SMA19-5097, Rockville, MD: Office of Policy, Planning, and Innovation, Substance Abuse and Mental Health Services Administration, 2019.

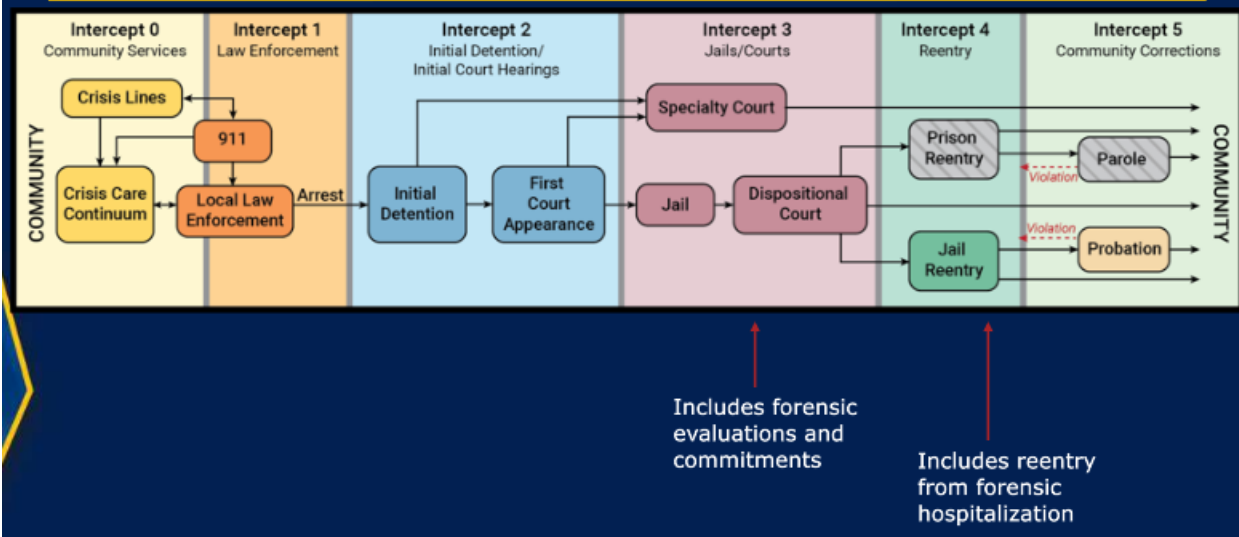


# The Sequential Intercept Model

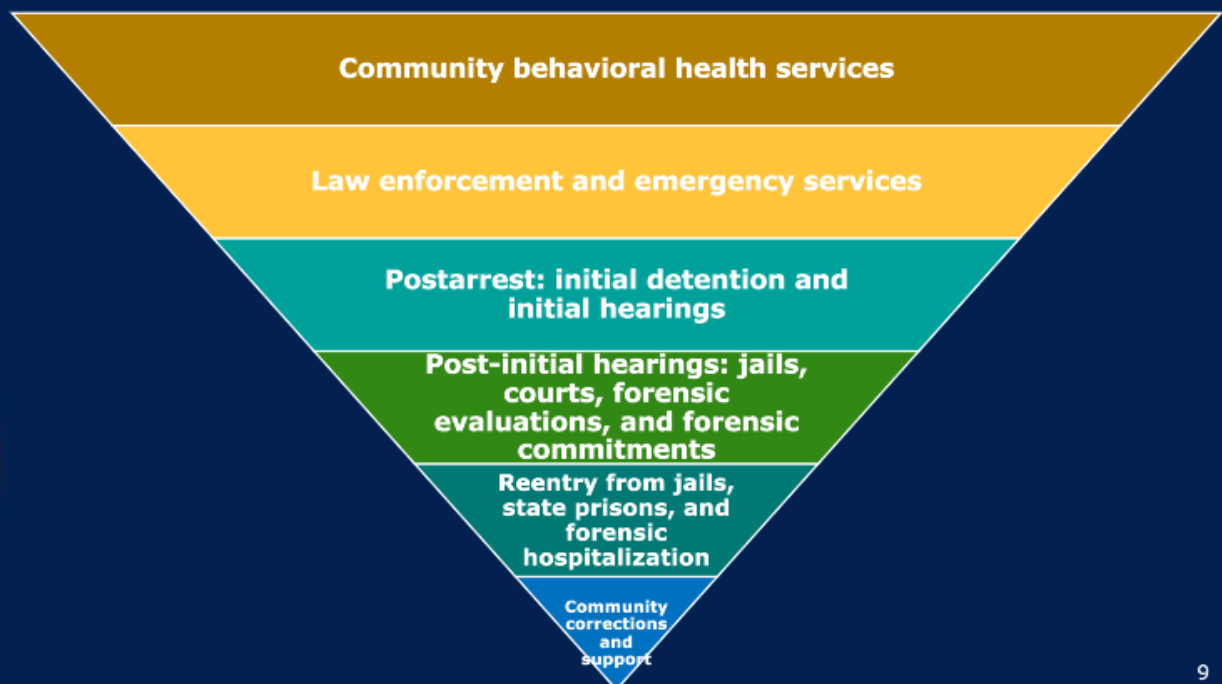
- People move through the CJS in predictable ways.
- Illustrates key points, or intercepts, to ensure:
  - Prompt access to treatment
  - Opportunities for diversion
  - Timely movement through the CJS
  - Engagement with the community



# The SIM in Visual Format



## The Intercept Triangle



# Intercept 0: Best Practices

## Someone to call



### Crisis Hotline

- 24/7 telephone service operated by trained crisis staff providing crisis screening and assessment, crisis intervention services, referrals, and general information to the community.

## Someone to respond



### Mobile crisis outreach teams

- Qualified professionals deployed into the community to provide a combination of crisis services including emergency care and urgent care services, crisis follow-up, and relapse prevention to children, adolescents, or adults 24/7.

## A place to go



### Crisis facilities

- Staffed with mental health professionals, medical professionals, or others (such as peer providers) offering assessment, support, and services to achieve psychiatric stabilization to people in crisis.
- Includes extended observation units, crisis respite, psychiatric emergency stabilization centers, diversion centers.

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# Intercept 1: Law Enforcement (Pre-Arrest)



## Key Features

- Begins when law enforcement responds to a person with a MI, SUD, or Intellectual Disability Disorder (IDD) or a person who is in crisis.
- Ends when the person is arrested or diverted into treatment.
- Trainings, programs, and policies help behavioral health providers and law enforcement work together.

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## Intercept 1: Best Practices



### MH and SU Drop-Off Centers

Centralized facilities for law enforcement to “drop off” people with MI who are in crisis and at-risk of arrest. Can provide referral to treatment, recovery support services, access to Naloxone, basic medical care, and medical monitoring.



### Behavioral Health and Law Enforcement Partnerships

- Paired teams of specially trained officers and mental health clinicians that respond to mental health calls for service.

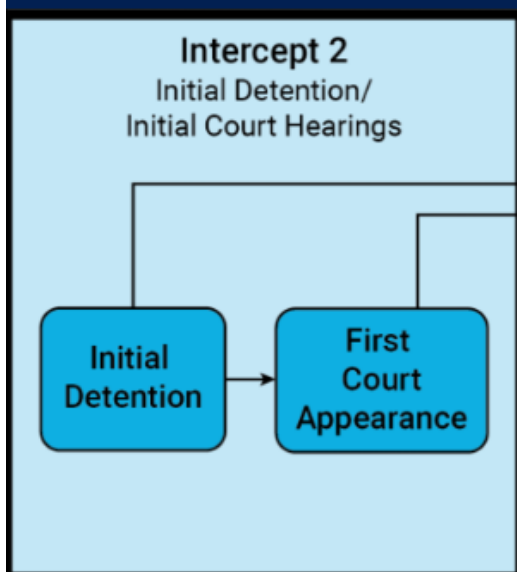


### Remote Co-Response

- Law Enforcement officers equipped with remote technologies (i.e. iPads) to connect individuals in crisis immediately to mental health clinicians via telehealth software.

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## Intercept 2: Initial Detention and Initial Court Hearings



### Key Features

- Supports early identification and screening to inform decision making around a person's care, treatment continuation, and pretrial orders.
- Supports policies that allow bonds to be set to enable diversion to community-based treatment and services.

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## Intercept 2: Best Practices



### Texas Law Enforcement Telecommunications System (TLETS) Continuity of Care Query

- Identifies people at jail booking who within the **last three years**, have been hospitalized in a state psychiatric hospital; admitted to an HHSC-funded contracted psychiatric hospital bed; or assessed, authorized, or received a mental health or developmental disability community service by an local mental health authority, local behavioral health authority, or local IDD authority.
- TLETS can be used to coordinate jail-based and post-release care between public mental health and IDD providers and county jails.



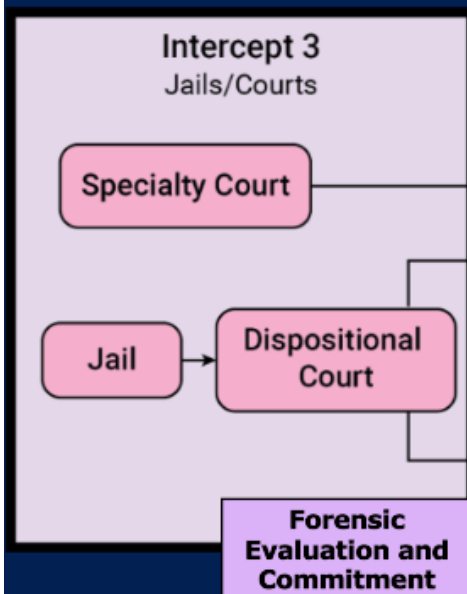
### Correctional Mental Health Care

- Jails can contract with the local community MH provider to ensure continuity of care between facility and community-based services.

15

## Intercept 3: Courts

### Key Features



- Court-based diversion programs and specialty courts that allow the criminal charge to be resolved while taking care of the defendant's behavioral health needs in the community.
- Includes forensic evaluations and commitments.

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## Intercept 3: Best Practices



### Specialized Courts

Cover distinct populations and offenses, including drug courts (adult and juvenile), family drug courts, veterans' treatment courts, and mental health courts.



### Mental Health Liaisons and Diversion Coordinators

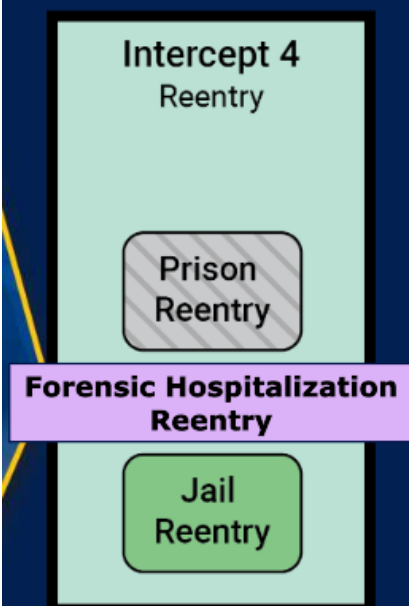
- Mental health jail liaisons and diversion coordinators can help make connections to services and other necessary resources in the community.



### Alternatives to Inpatient Competency Restoration Services

- Outpatient Competency Restoration and Jail-based Competency Restoration services.

## Intercept 4: Reentry



### Key Features

- Ensures people have workable plans in place to provide seamless access to medication, treatment, housing, health care coverage, and services from the moment of release and throughout their reentry.
- Should be well planned, resourced, and individual-centric to help set people up for success and avoid lapses in recidivism.

## Intercept 4: Best Practices



### Reentry Planning by the Jail or In-Reach Providers

- Planning for reentry should begin at intake and continue throughout the person's incarceration.
- Planning should involve providers and resources across criminal justice, behavioral health, and physical health care systems.



### Continuity of Care

- Jail Medical providers can provide individuals prescribed psychotropic medications with an extra supply of medications or a prescription to ease the transition.
- Providers can work with jails to develop warm-handoffs to services after release.



### Peer Support Services

- People who have gone through the transition from jail or prison to the community can help people plan for reentry, identify safe housing, and identify protective factors that protect them from recidivating
- Peer staff may be employed by the jail or by in-reach providers to deliver transition planning services.

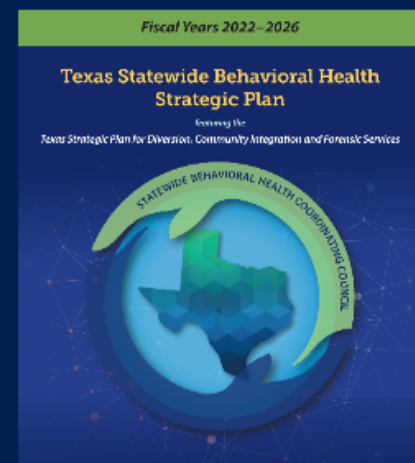
19

Skipped Intercept 5 – Community Correction – Not HHSC, it is a Pardon and Parole function.

## Texas Statewide BH Strategic Plan

### Diversion, Community Integration and Forensic Services

1. Support expansion of robust crisis and diversion systems to reduce and prevent justice involvement for people with MI, SUD, and IDD.
2. Increase coordination, collaboration, and accountability across systems, agencies, and organizations.
3. Enhance the continuum of care and support services for justice-involved people with MI, SUD, and IDD.
4. Strengthen state hospital and community-based forensic services.
5. Expand training, education, and technical assistance for stakeholders working at the intersection of behavioral health and justice



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**Transforming Behavioral Health and Justice Systems in Texas**

**Learn & Engage**

**Current Learn & Engage Opportunities**

The Texas Behavioral Health and Justice Technical Assistance Center facilitates opportunities for behavioral health and justice system leaders to learn from and engage with one another on critical topics, mapping priorities, barriers and current learning opportunities, challenges and change.

- Division Learning Collaborative**  
The Division Learning Collaborative will support locally transformed health and justice systems in developing division strategies to address unmet needs and challenges for people with mental illness, substance use disorders, and co-occurring and developmental disabilities.
- Utilize the Web**  
Maximize the Web is a three-week campaign to help reduce the need for in-person, costly, and often ineffective services and improve outcomes for people with behavioral health needs.
- All in Health Learning Collaborative**  
The All in Health Learning Collaborative (AHL) is a peer-to-peer learning opportunity for county health departments to identify strategies to address mental health and substance use disorders in their communities and to develop and implement evidence-based, community-oriented services.
- Regional Interagency Mapping Community of Practice**  
The Texas T&E Community of Practice is an opportunity for community and justice system leaders to share their expertise and experiences in the mapping process and to develop a shared vision for the mapping process.

**www.txbhjustice.org**

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SIM Workshops available

**Thank you!**

[Jennie.Simpson@hhs.texas.gov](mailto:Jennie.Simpson@hhs.texas.gov)

Rural community – Andrews County – recently completed assessment – police department is overwhelmed with mental health and behavioral health. Getting crisis, emergency mental health assistance can take two to three days.

- Another county did a SIM mapping workshop – worked with police, fire, health – hired SIM coordinator

DSHS Office of Public Health Policy – involved in re-entry task force

- Jennie is on [Texas ...] and TDCJ re-entry task force advisory committees

State Hospital in Big Spring, but at Community College – what kind of training should community colleges be doing as short-term training to increase understanding of mental health in the state?

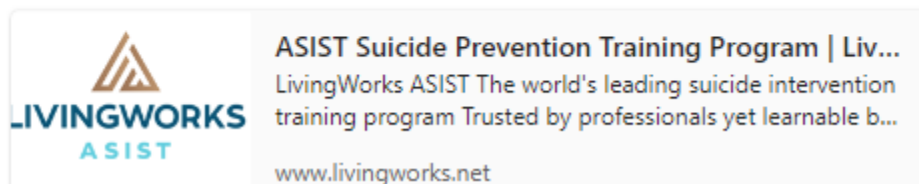
- SIM mapping workshop in Navarro college -opportunity to pair a community level and justice professionals – build into health care curriculum

**High percentage of this population has trauma history (particularly brain injury) – what resources to treat individuals with brain injury?**

- Prevalence of TBI in this population – research is lacking, poor understanding, inadequate or inappropriate training – will need tailored interventions for this population

Castellanos,Tina N (DSHS) 11:39 AM

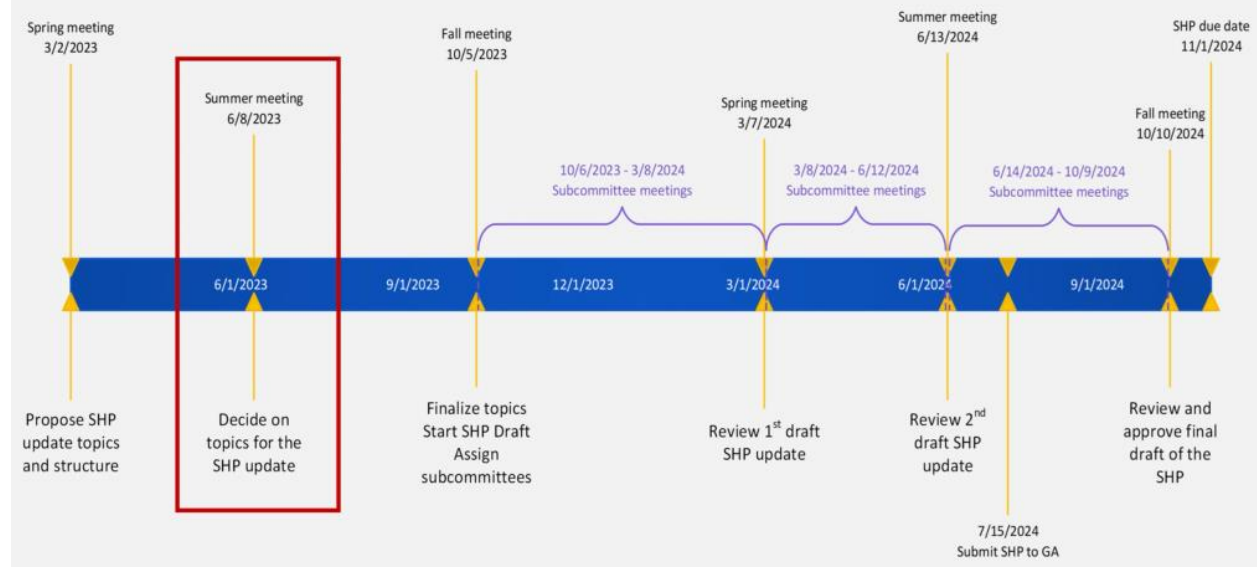
The ASIST Training is more in-depth than the Mental Health First Aide. Some of our staff have taken it and found it really helpful [ASIST Suicide Prevention Training Program | LivingWorks](#)



- end Behavioral Health Services Available to Justice-Involved Individuals presentation–

## 6. Update on implementation of 2025-2026 Update to the State Health Plan

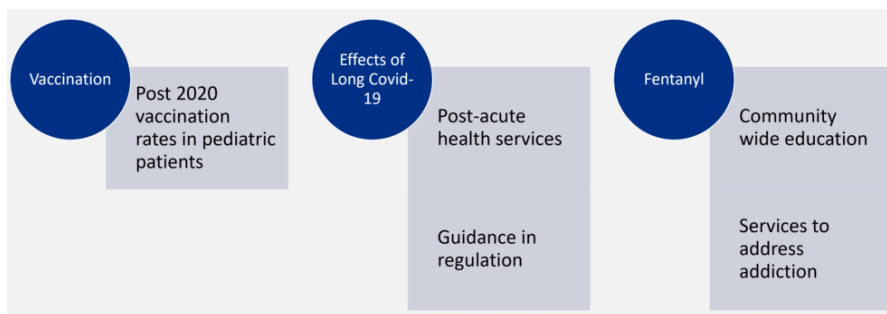
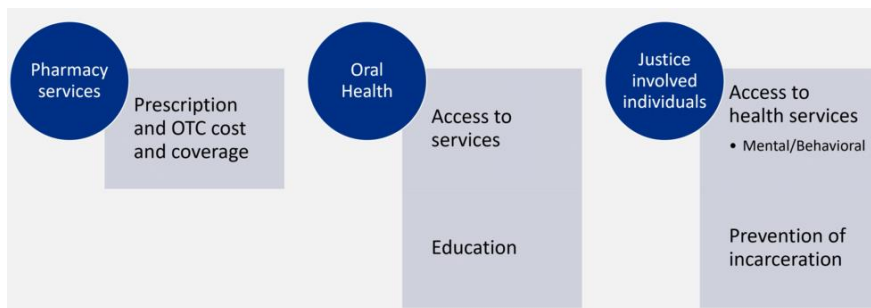
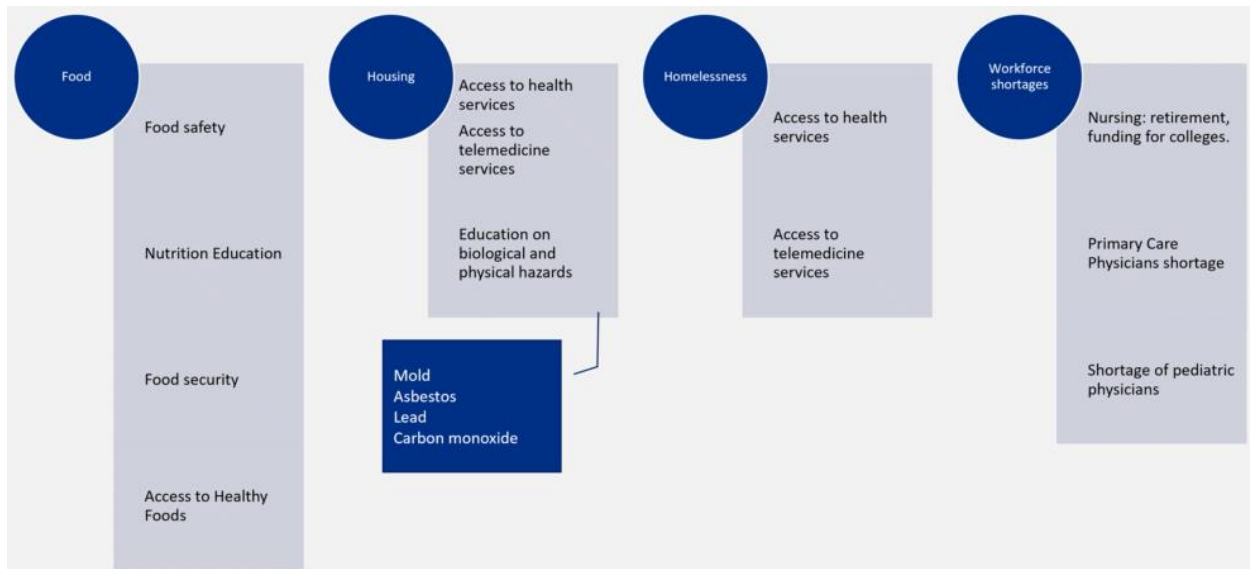
### SHP 2025 update timeline

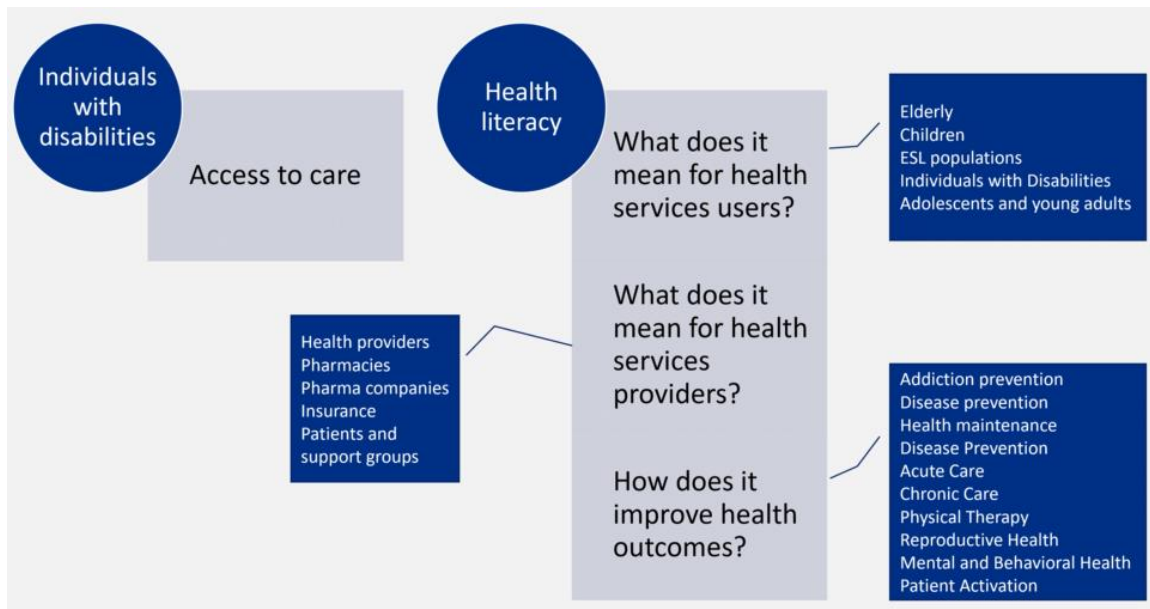


### 2023-2028 SHP Topics

2023-2028 SHP Topics	
Access to Care	Support efforts for enrollment in Medicaid Examine causes that limit Access to Care: Is health care Affordable, Available and Accessible, Acceptable, Appropriate, Approachable?
Rural Health	Bring health care providers to rural areas Support hospital financing
Mental Health	Increase mental health access in schools Support the Texas Child Mental Health Care Consortium Expand the Loan Repayment Program for Mental Health Professionals
Telemedicine	Get teleservices to rural communities Encourage health insurance organizations to promote teleservice benefits







Health literacy has been in Legislature a couple of times, but Legis has kicked it back SHP

SHP topics to be finalized at Oct 5 meeting

## Next steps

- Select the topics for the SHP update.
- Next meetings
  - October 5, 2023: assign subcommittees for the SHP update topics
  - February 29, 2024: Review the first draft of the update

- end Update on SHP -



## 7. Agency Report: DSHS



Melick, Abigail (DSHS) 12:09 PM  
[abigail.melick@dshs.texas.gov](mailto:abigail.melick@dshs.texas.gov)

### Overview

- Status of Legislative Session
- Legislation Passed Affecting Public Health

### Status of the Legislature

- **Sine Die (Last Day of Regular Session) was on May 29<sup>th</sup>**
- **Current Special Session**
- **Veto Period**

Property Taxes and Human Smuggling – House passed then adjourned

Veto period – 20 days after end of reg session (June 18) Gov has line item veto over budget

After veto period ends DSHS will develop plan

## Bills Affecting Public Health

- HB 12: Expanding Medicaid coverage for post-partum mothers to 12 months.
- HB 617: Establishes a pilot project to provide EMS training via telemedicine in rural areas.
- SB 29: COVID vaccine mandates, mask mandates, and required closure of businesses or schools prohibited.
- SB 812 – Requires food allergen awareness in food service establishments.
- HB 624 – Allows a firefighter to transport a patient in a vehicle other than an EMS vehicle.

HB12 – not yet signed by Gov

HB617 – law

SB29 – law

SB812 – not yet signed by Gov

HB624 -

- end DSHS Agency Report-