

**TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL MEETING
SUMMARY OF MINUTES
JANUARY 14, 2020**

Council Counsel member Steve Christopherson called the meeting to order at 9:10 a.m. Interim Director Darrel Spinks noted that a quorum was present, and that Council members Canseco and Francis were running late and would join the meeting in progress. Council member Dr. Sarah Abraham, seconded by Council member Jennifer Smothermon, made a motion to excuse the absence of Council member Megan Graham. Motion passed by unanimous vote.

Council member Christopherson moved to Item 3: Public Comments. The Council received public comments from Jeanene Smith, Jan Friese, Will Francis, Jessica Magee, Corinne Zupanick, and Sandra Martin.

Chair Gloria Canseco and Council member George Francis IV arrived at 9:25 a.m. during public comment.

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

Chair Canseco moved to item 4, Approval of Minutes – Meeting of October 15, 2019. Council member George Francis IV, seconded by Council member Dr. Sarah Abraham, moved to adopt the minutes as presented. Motion passed by unanimous vote.

Chair Canseco moved to item 5, Update on training completed by Council and Board members. Interim Director Darrel Spinks reported that all members are trained.

Chair Canseco moved to item 6, Management action status updates from the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas State Board of Social Worker Examiners in response to the Sunset Commission report. Timothy Spear of the Health and Human Services Commission reported that the goals set by Sunset are being met on target. The individual Boards continue to review their rules for possible improvements and plan to make recommendations at the Texas Behavioral Health Executive Council meetings on the rules.

Chair Canseco moved to item 7, Review of draft agency record retention schedule. Interim Director Darrel Spinks reported on the current draft of the record retention schedule as a work in progress. A draft of the Texas State Board of Examiners of Psychologists' records retention schedule is provided as a model for the Texas Behavioral Health Executive Council. Staff is looking at purging unnecessary documents to avoid transferring unnecessary documents when the Boards are transferred to the Council and the Council moves to its new facilities. No Council action was taken on this item.

Chair Canseco moved to item 8, Discussion and approval of agency's organization chart (i.e., hierarchy chart). Interim Director Darrel Spinks explained the organization chart as a high-level picture of the agency make up. Interim Director Spinks answered questions from the Council

members on the budget and future support of the agency. Council member Steve Christopherson, seconded by Council member George Francis IV, moved to adopt the organization chart as presented. Motion passed by unanimous vote.

Chair Canseco moved to item 9, Review of draft rules related to general operations, applications and licensing, renewals, complaints and enforcement, and fees. Interim Director Darrel Spinks outlined the draft rules. The Council discussed the rule options governing Council approval of anti-competitive rules requiring a quorum and a majority of the vote, giving voting power to the public members to carry a vote regarding anti-competition laws and rules. Council members opted to remove this language. The Council discussed term limits for Council members. The Council opted to remove the term limit requirements. The Council discussed the conflicts of interest and recusal rules regarding Council members recusing themselves from voting on contested case matters that they were directly involved in at the individual Board level. The Council discussed access to confidential and agency records by the Council members. The Council discussed rules designed to protect staff and Council members from harassing or offensive language or conduct. The Council's discussion revealed that ultimately it is subjective and difficult to prove; this item was referred back to the Incubation Task Force for discussion. The Council discussed the ultimate rulemaking authority of the Council over the member boards. The Council discussed its involvement in application review and final approval and tracking the process for an appeal of a denied application. The Council opted to remove the rules which made the Council part of the review process in a denied application prior to a State Office of Administrative Hearings ruling. The Council discussed rules for the accommodations for repeated exam failures. The Council discussed rules requiring documentation for reasonable accommodations for persons with disabilities. Chair Canseco suggested that the Council carefully consider this rule and discuss it further. The Council discussed the rule regarding holding an application for a license if a pending complaint exists. The discussion extended to a definition of the term "Council" and whether Council staff or Council members were responsible for review and approval of license. The Council discussed the review of the rules after the initial review for processes that could be removed and assigned to the staff. The Council discussed rules requiring the display of a license and the subsequent forgery of licenses. The Council referred this matter back to the Incubation Task Force. The Council discussed the rule regarding continuing education audits and the frequency and percentage of audits. The Council discussed the rule regarding a military spouse who moves to Texas and holds a license in another state. The Council discussed the license renewal rules. Interim Director Darrel Spinks did not specifically review the complaints and enforcement rules or the fees rules with the Council, since these rules have not been discussed by the Incubation Task Force yet.

Chair Canseco moved to item 10, Review and approval of transition plan between the member boards and the Council. Interim Director Darrel Spinks reported that the plan is on schedule or ahead of schedule and running smoothly. Council member George Francis IV, seconded by Council member Jennifer Smothermon, moved to approve the transition plan between the member boards and the Council as presented. Motion passed by unanimous vote.

Chair Canseco moved to item 11, Report from Interim Director:

- a. The transition plan tasks completed or in-progress by Incubation Taskforce members and agency staff. Interim Director Darrell Spinks reported that all tasks are progressing nicely. Additionally, all the database transfers are moving smoothly.

- b. The status of interagency agreements authorized at the October 15th meeting. All agreements have been signed and are in operation.
- c. Letter from Erin Bennett, Director, Regulatory Compliance Division, Office of the Governor, dated November 18, 2019. The letter explains the process for the anti-competitive rule review. The way the Governor's Office is reviewing the rules is the same way the Council would be reviewing the rules from an anti-competitive perspective.
- d. Submission and publication of FY2020 Operating Budget. The Council's Operating Budget is posted on the Texas State Board of Examiners of Psychologists' website.
- e. Survey of stakeholders for 2021-2025 Strategic Plan. Interim Director Darrell Spinks provided a draft survey for the Council's review and approval. Council member George Francis IV, seconded by Council member John Bielamowicz, moved to adopt the stakeholder survey as presented. Motion passed by unanimous vote.

Chair Canseco moved to item 12, Report from Hiring Committee regarding search for BHEC Director. Council member Jennifer Smothermon reported for the Hiring Committee. She reported on four conference calls and meetings with the Texas Department of Licensing and Regulation (TDLR) Human Resources staff to develop interview questions and point keys, create a Work in Texas account, and finalize the position description. The position posted December 1, 2020. on Work in Texas, Indeed, the member Boards' webpages, and some of the professional associations' webpages. Work in Texas received 143 views, and TDLR Human Resources responded to 45 emails on Indeed. Fourteen applications were received, seven met Minimum Qualifications, and the top six candidates were interviewed on January 13, 2020. The top three candidates will be invited to a second interview with the full Council. The Council discussed possible dates for the follow up meetings and settled on February 4, 2020. Council member George Francis IV, seconded by Council member Susan Fletcher, made a motion to hold the next meeting on February 4, 2020 at 11:00 a.m. for the purpose of conducting interviews. Motion passed by unanimous vote.

Chair Canseco moved to item 13, Discussion concerning rulemaking process under Chapter 507 of the Occupations Code and continuing rule development authority by member boards. Interim Director Darrel Spinks reported that rulemaking authority by member boards is prohibited at this time by the statute.

Chair Canseco moved to item 14, Discussion concerning development of agency performance measures. The performance measures were taken from the Texas State Board of Examiners of Psychologists' performance measures as a placeholder in the formation of the Council. The performance measures are available for input from Council members and revised performance measure are due by the end of March 2020 to the Legislative Budget Board (LBB). Final approval of the performance measures comes from the Governor's Office and the LBB. Approval of the revised performance measures by the Council will be added to the March 2020 agenda. No Council action was taken on this item.

Chair Canseco moved to item 15, Report from Member Boards regarding current or future issues that may impact the profession or the agency's regulatory functions. The Texas State Board of

Examiners of Professional Counselors reported it has some upcoming informal settlement conferences and a Board meeting scheduled on February 7, 2020. No other Boards had a report.

Chair Canseco moved to item 16, Discussion concerning future meeting dates and whether Council and board meetings may be held outside of Austin, Texas. The Council set the future meeting dates as follows: February 4, 2020; March 2, 2020; June 16, 2020; August 28, 2020; October 27, 2020; January 12, 2021; May 4, 2021; August 24, 2021. The February 4, 2020 meeting will begin at 11 a.m. All other meetings will start at 9:00 a.m.

Chair Canseco moved to item 17, Recommendations for items for the next Council meeting. Council placed the following items on the next agenda: explore the cost and possibility of holding meetings outside of the Austin area; discussion on the public comment process and when comments are received during the meeting; development of outcome measures and input from researchers; request that Sunset Commission website be updated to show the member Boards as active; update on the Texas Behavioral Health Executive Council website; recommendations from the Incubation Task Force agencies on when and how the public can weigh in on the rules; and provide a response to the travel request from the Texas State Board of Examiners of Marriage and Family Therapists for October 2020 and whether that travel fits within the Council's budget.

Chair Canseco moved to item 18, Adjournment. Council member Sarah Abraham, seconded by Council member Susan Fletcher, moved to adjourn the meeting. Motion passed by unanimous vote. Chair Canseco adjourned the meeting at 2:42 p.m.

Gloria Canseco, Presiding Officer
Texas Behavioral Health Executive Council