

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

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

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

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

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

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

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

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

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

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

Chair Gloria Canseco moved to item 8, Report from Executive Director.

a. Update on agency operations and the transition plan tasks completed or in-progress by Incubation Taskforce members and agency staff. Executive Director Spinks reported that the transition is running smoothly and is on schedule, office space is secured, and purchases are in place. Mr. Spinks reported that staff is ready to begin operations on September 1. The Council members offered praise for all the efforts to get the new agency operational.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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