

# TEXAS BEHAVIORAL HEALTH EXECUTIVE COUNCIL



## MEMBERS OF THE COUNCIL

Gloria Z. Canseco, M.A., Chair

Kenneth Bateman, Ed.D.

John K. Bielamowicz

Timothy M. Brown, M.S.W.

Susan Fletcher, Ph.D.

George Francis, IV

Steven Hallbauer

Benny W. Morris

Christopher Taylor, Ph.D.

Darrel D. Spinks  
Executive Director

## Texas Behavioral Health Executive Council

October 27, 2020

The Texas Behavioral Health Executive Council met via Zoom video conference on October 27, 2020. The following Council members were in attendance: Gloria Canseco, M.A., Chair; Kenneth Bateman, Ed.D.; John Bielamowicz; Timothy Brown, M.S.W.; Susan Fletcher, Ph.D.; George Francis, IV, M.B.A.; Steven Hallbauer; Ben Morris, M.Ed.; and Christopher Taylor, Ph.D. Also, in attendance were Darrel Spinks, Executive Director, Patrick Hyde, General Counsel, Sarah Wolfe and Kara Holsinger from the Attorney General Office.

### Tuesday, October 27, 2020

1. The meeting was called to order at 9:00 a.m. by Ms. Canseco.
2. The Council moved into Item 2, Roll Call and Certification of Quorum. A quorum was seated for the meeting.
3. Ms. Canseco welcomed new Council members: Christopher Taylor, Ph.D., Mr. Steven Hallbauer and Kenneth Bateman, Ed.D.
4. The Council moved into Item 3, Review and approval of minutes from prior meeting(s).

A MOTION WAS MADE BY MR. FRANCIS AND SECONDED BY DR. FLETCHER TO APPROVE THE OCTOBER 12, 2020 MEETING MINUTES. THE VOTE WAS APPROVED UNANIMOUSLY.

5. The Council moved into Item 4, Discussion regarding whether to initiate rulemaking to adopt non-discrimination requirements for licensees or, alternatively, to seek OAG opinion regarding agency's authority to initiate rulemaking under current statutory authority. Discussion regarding non rulemaking actions that can be taken to preclude discrimination by licensees in the delivery of services.

- A. Ms. Canseco read a statement.

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- B. Mr. Brown read a statement.
- C. Senator Jose Menendez spoke regarding the rule change. Sen. Menendez stated that change was not necessary, and this issue would be raised this legislative session. Sen. Menendez requested that the Council not take any action.
- E. Representative Jessica Gonzales – member of the LGBTQ community stated she would be filling a bill this legislative session.
- F. Three options were presented to the Council:
  - i. adopt the rule as discussed at the October 12<sup>th</sup> meeting with the requested changes from the Governor’s office and then adopt a policy to define the term “sex” to include sexual orientation and gender identity. This would not address disability but it is already covered under the American with Disability Act;
  - ii. keep both rules: do not repeal old rule and adopt rule with requested changes from the Governor’s office and seek an AG opinion regarding which to keep; or
  - iii. adopt rule as originally proposed and then seek AG opinion regarding authority to include those terms.

6. The Council moved into Executive Session pursuant to Tex. Gov’t Code Ann. §551.071 at 9:43 a.m.

7. The Council returned from Executive Session at 10:47 a.m. Mr. Morris did not return to open session.

8. The Council returned into Item 4.

A MOTION WAS MADE BY MR. BROWN AND SECONDED BY MR. BIELAMOWICZ TO SELECT OPTION #3 WITHOUT GOVERNOR’S OFFICE CHANGES. THE VOTE CARRIED WITH MR. MORRIS ABSENT FROM THE MEETING.

A MOTION WAS MADE BY MR. BIELAMOWICZ AND SECONDED BY DR. TAYLOR TO SEEK AN AG OPINION TO INFORM THE COUNCIL WHY IT DOES NOT HAVE AUTHORITY TO ENACT THIS RULE OR OTHER SIMILAR RULES. THE VOTE CARRIED WITH MR. MORRIS ABSENT FROM THE MEETING.

9. The Council moved into Item 5, Status report on implementing examination approval TSBSWE applicants through the ASWB licensing portal.

- A. Mr. Spinks stated that the contract had been signed with ASWB; application were being developed and building website on the agency side. Mr. Spinks stated this would cut approximately 2500 applications processed by staff a year.

Mr. Morris returned to open session at 10:54 a.m.

10. The Council moved into Item 12, Rulemaking – Texas State Board of Examiners of Professional Counselors:

A. Proposed Rules:

i. 681.164, Licensing of Persons with Criminal Convictions.

A MOTION WAS MADE BY DR. TAYLOR AND SECONDED BY MR. HALLBAUER TO WITHDRAW THE PROPOSED RULE THAT WAS PUBLISHED IN THE JULY 17, 2020 TEXAS REGISTER. THE VOTE WAS APPROVED UNANIMOUSLY.

ii. 681.164, Licensing Persons with Criminal Convictions.

A MOTION WAS MADE BY DR. FLETCHER AND SECONDED BY DR. BATEMAN TO APPROVE THE PROPOSED NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

iii. 681.92, Experience Requirements (Internship).

A MOTION WAS MADE BY DR. TAYLOR AND SECONDED BY MR. BROWN TO APPROVE THE PROPOSED REPEAL AND PROPOSED NEW RULE. THE VOTE WAS APPROVED UNANIMOUSLY.

11. The Council moved into Item 6, discussion of possible administrative solutions to address licensing backlogs, e.g., extension of application expiration dates, fee waivers.

A. Mr. Francis discussed the backlog of license applications which in September 2020 was 815 and October 2020 was 528.

B. Mr. Spinks stated that applications were being processed, but he authorized overtime (from monies from vacant positions) to help with the backlog of applications.

C. Mr. Francis made some suggestions addressing backlog:

i. One-on-one training;

ii. Volunteers scanning;

iii. Root case analysis; and

iv. Process mapping

D. Mr. Brown stated that working with staff he was aware of all of the paperwork and discussed a portal to upload documents.

12. The Council moved into Item 7, discussion regarding protocol and methods of returning phone calls and emails. The Council reviewed the reimbursement for telecommunications/telework expenses sheet from the Comptroller of Public Accounts website.

13. The Council moved into Item 8, Report from Executive Director on status of agency operations and efficiency:

- A. Mr. Spinks stated that the Legislative Appropriations Request for 2022-2023 biennium was due on October 9, 2020 and the agency requested the following exceptions items:
  - i. additional FTEs for licensing,
  - ii. new workstations for Capitol Complex move, and
  - iii. fee reduction initiative.
- B. Mr. Spinks stated that the enforcement topics will be discussed later in the meeting.
- C. Mr. Spinks stated that ASWB would be launching the website on November 1<sup>st</sup>.

The Board recessed for a break at 12:27 p.m.

The Board reconvened from a break at 1:06 p.m.

- 14. The Council moved into Item 9, Rulemaking – Texas Behavioral Health Executive Council – no items to discuss.
- 15. The Council moved into Item 10, Rulemaking – Texas State Board of Examiners of Marriage and Family Therapists – no items to discuss.
- 16. The Council moved into Item 11, Rulemaking – Texas State Board of Psychologists – no items to discuss.
- 17. The Council moved into Item 13, Rulemaking – Texas State Board of Social Worker Examiners – no items to discuss.
- 18. The Council moved into Item 14, Report from ad hoc Fee Review Committee – nothing to report at this time.
- 19. The Council moved into Item 15, Report from Members Boards regarding current or future issues that may impact the profession or the agency’s regulatory functions – nothing to report at this time.
- 20. The Council moved into Item 16, Recommendations for future agenda items.
  - A. Discuss in person meetings.
- 21. The Council moved into Item 17, Public Comment.
  - A. Will Francis - thanked the Council for their rule change.
  - B. Jan Friese - spoke in favor of the rule change.
  - C. Kathy Rider – spoke in favor of the rule change.
  - D. Paul Stanford – spoke in favor of the rule change.

- E. Sandra Martin – spoke against the rule change.
- F. Megan Mooney – spoke in favor of the rule change.
- G. Paul Ruls – spoke in favor of the rule change.
- H. David Marsden – spoke regarding student interns waiting times.
- I. Laura Reid – spoke in favor of the rule change.
- J. Kimberly Sullivan – spoke in favor of the rule change.
- K. Mary Elizabeth Castle – spoke against the rule change.
- L. Leila Lewinson – spoke in favor of the rule change.
- M. Brandi Felderhoff- spoke in favor of the rule change.
- N. Soledad Garcia-Brady – spoke in favor of the rule change.
- O. Januari Fox – spoke in favor of the rule change.
- P. Alyssa Karsagi – spoke regarding child custody evaluation.
- Q. Caroline Hendrix – spoke in favor of the rule change.
- R. Brittany Hudson – spoke regarding license backlog.
- S. Janet Finch – spoke regarding supervision plans.
- T. Shelly Sheen – spoke in favor of rule change.
- U. Jim Craig – spoke regarding written response complaint.
- V. Elias Cantu – spoke in favor of the rule change.
- W. Gina Odom – spoke regarding child custody evaluation.
- X. Kate Osborn – spoke regarding child custody evaluation.
- Y. Hannah Arlettee – spoke regarding child custody evaluation.
- Z. Blanca Alvarado – spoke regarding asking for help with backlog.
- AA. Breanna Curbow – spoke in favor of the rule change.
- BB. Wanda Patrick – spoke regarding child custody evaluation.
- CC. Shane Patrick – spoke regarding child custody evaluation.

- DD. Kate Fitzpatrick – spoke in favor of the rule change.
- EE. Shana Balkin – spoke regarding child custody evaluation.
- FF. Alissa Sughrue – spoke in favor of the rule change.
- GG. Sarah Lackey – spoke in favor of the rule change.
- HH. Kayla Villega – spoke in favor of the rule change.
- II. Mary Beth Callahan – spoke in favor of the rule change.
- JJ. Yaakov Hagler – spoke regarding child custody evaluation.
- KK. Sharon Hackner – spoke regarding child custody evaluation.
- LL. Jess Riley – spoke in favor of the rule change.
- MM. Kristen Biggins – more insight on what happened on October 12, 2020.
- NN. Heather Huber – spoke regarding child custody evaluation.
- OO. Michele Vesceri – spoke regarding child custody evaluation.
- PP. Chaya Rosengerger – spoke regarding child custody evaluation.
- QQ. Natalie Beck – spoke in favor of the rule change.
- RR. Kathleen Mills – spoke regarding having the legislature change the rule.
- SS. Marisa Ridley – spoke regarding her application submission.
- TT. Angie Panzica – spoke in favor of the rule change.
- UU. Jen Steenberger – spoke in favor of the rule change.
- VV. Margaret Stone – spoke against the rule change.
- WW. Hannah Falkenberg – spoke regarding child custody evaluation.
- XX. Rivka Fish – spoke regarding child custody evaluation.
- YY. Tara Cornado – spoke regarding child custody evaluation.
- ZZ. Melinda Silver – spoke regarding child custody evaluation.
- AAA. Gilbert Francis – spoke regarding child custody evaluation.
- BBB. Paul Comeaux – spoke against the rule change.

22. The Council moved into Executive Session pursuant to Tex. Gov't Code Ann. §551.071 at 4:05 p.m.
23. The Council returned from Executive Session at 4:30 p.m.
24. The meeting was adjourned at 4:35 p.m. by Ms. Canseco.