

# Texas State Board of Social Worker Examiners

## SPECIAL-CALLED BOARD MEETING BY VIDEOCONFERENCE

Friday, April 2, 2021, 8:30 a.m.  
333 Guadalupe, Suite 3-900  
Austin, Texas 78701

Due to Governor Greg Abbott's March 13, 2020, proclamation of a state of disaster affecting all counties in Texas due to the Coronavirus (COVID-19) and the Governor's March 16, 2020, suspension of certain provisions of the Texas Open Meetings Act, this meeting of the Texas State Board of Social Worker Examiners (Board) will be held by videoconference, as authorized under Texas Government Code §551.127. There will be no physical meeting location open to the public so long as the disaster declaration is in effect.

**Members of the public will have access and a means to participate in this meeting with two-way communication by entering the URL address: <https://us02web.zoom.us/j/87312842152> into a web browser or by calling**

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**and entering meeting ID: 873 1284 2152.**

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

FOR THOSE WHO WISH TO PROVIDE PUBLIC COMMENT: When the public comment agenda item is announced, if you have joined the meeting by computer, please use the “raise hand” feature to indicate you would like to provide a public comment. Those who raise a hand will then be unmuted to give public comment. After all those who raised a hand have been given an opportunity to provide public comment, staff will call upon and unmute those who have joined the meeting by telephone. When providing public comment, please identify yourself and whether you are speaking individually or on behalf of an organization. All public comments will be limited to 3 minutes, unless otherwise directed by the presiding officer. In lieu of providing public comment during the meeting, before the meeting you may submit written public comments via email to [general@bhec.texas.gov](mailto:general@bhec.texas.gov) with subject line “SW Public Comment – ATTN Board Administrator.” Any written public comment received is submitted to the Board members for their consideration during the meeting, but is not read aloud.

In the event Governor Greg Abbott's March 13, 2020, disaster declaration is not renewed or expires before April 2, 2021, then pursuant to Texas Government Code, §551.127, notice is hereby given that one or more Board members may appear at the scheduled meeting via videoconference, but the presiding officer will be physically present at the above-noticed location. This location will be open to the public only in the event the March 13 disaster declaration is not renewed.

Please note that the Board may request input during the meeting from any interested parties or members of the public during its discussion of an agenda item.

If you are planning to attend this meeting and need auxiliary aids, services or materials in an alternate format, please contact the Board at least 5 working days before the meeting date. PHONE: (512) 305-7700, EMAIL: [general@bhec.texas.gov](mailto:general@bhec.texas.gov), or TTY/RELAY TEXAS: 711 or 1- 800-RELAY TX.

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

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

## **AGENDA**

(Brumley, Graham, Morris, Mosier, Ramsbacher, Rodgers, Saenz-Davila)

1. Call meeting to order.
2. Approval of minutes of the March 5, 2021, videoconference Board meeting.
3. Discussion and possible action regarding public comment on proposed rule (published in the February 19, 2021 *Texas Register* [46 TexReg 1177] and recommendations to the Texas Behavioral Health Executive Council (Council) concerning adoption of 22 TAC
  - A. §781.803 *Severity Levels*, concerning removal of reference to rule that was previously repealed; and
  - B. §§781.312 *Licenses and the Council* and 781.805 *Schedule of Sanctions*, concerning repeal of requirement that licensee must report any and all employment settings to the Council and removing sanction for failure to timely report name or address change to the Council.
4. 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.
5. 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.
6. Public Comment.
7. 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 Social Worker Examiners  
general@bhec.texas.gov

Proposed rule 781.803 was published in the February 19, 2021 *Texas Register* [[46 TexReg 1177](#)]. Public comment period ended March 21. As of March 22, no public comment has been received.

Rule: [781.803](#). Severity Levels.

Action: Proposed Amendment

Reasoning: Former rule [781.806](#) has now been repealed; therefore, the reference to this rule found in 781.803(4) is unnecessary and should be repealed.

**781.803. Severity Levels.** The following are severity levels for the schedule of sanctions.

- (1) Level One--Revocation of license. These violations evidence the licensee's intentional or gross misconduct, cause or pose a high degree of harm to the public, and/or require severe punishment to deter the licensee, or other licensees. The fact that a license is ordered revoked does not necessarily mean the licensee can never regain licensure. The Council may also impose an administrative penalty of not less than \$250 or more than \$5,000 for each Level One violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a financial penalty.
- (2) Level Two--Extended suspension of license. These violations involve less misconduct, harm, or need for deterrence than Level One violations, but require suspension of licensure for a period of not less than one year. The Council may also impose an administrative penalty of not less than \$250 or more than \$4,000 for each Level Two violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.
- (3) Level Three--Moderate suspension of license. These violations involve less misconduct, harm, or need for deterrence than Level Two violations, but require suspension of licensure for some period of time. The Council may also impose an administrative penalty of not less than \$250 or more than \$3,000 for each Level Three violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.
- (4) Level Four--Probated suspension of license. These violations do not involve enough harm, misconduct, or need for deterrence to warrant suspension of licensure, yet are severe enough to warrant monitoring of the licensee to ensure future compliance. [~~Possible probationary terms are set out as in §781.806 of this title (relating to Probation) and may be ordered as appropriate.~~] The Council may also impose an administrative penalty of not less than \$250 or more than \$2,000 for each Level Four violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.
- (5) Level Five--Reprimand. These violations involve minor misconduct not directly involving the health, safety or welfare of the particular member of the public at issue. The Council may also impose an administrative penalty of not less than \$250 or more than \$1,000 for each Level Five violation. Each day a violation continues or occurs is a separate violation for the purpose of imposing a penalty.

Proposed rules 781.312 and 781.805 were published in the February 19, 2021 *Texas Register* [[46 TexReg 1177](#)]. Public comment period ended March 21. As of March 22, no public comment has been received.

Rule: [781.312](#). Licensees and the Council.

Action: Proposed Amendment

Comment: The proposed repeal of subsection (c) of this rule because the reporting of any and all employment setting changes by licensees to the Council and is no longer necessary.

781.312. Licensees and the Council.

(a) Any person licensed as a social worker is bound by the provisions of the Act and this chapter and Council rules and statutes.

(b) A social worker shall report alleged misrepresentations or violations of this chapter to the Council.

~~(c) The licensee shall report any and all employment setting changes to the Council within 30 days.~~

Rule: [781.805](#). Schedule of Sanctions.

Action: Proposed Amendment

Comment: The proposed amendment is due to changes made in Board §781.312(c)

781.805. Schedule of Sanctions. The following standard sanctions shall apply to violations of the Act and these rules.

-Figure 22 TAC §781.805

DISCIPLINARY ACTIONS (reported to the National Practitioner Databank)

**Level 5: Reprimand** (Administrative Penalty: not less than \$250; no more than \$1,000 per day)

\_\_\_ Failure to inform consumer of all required items, provide a written explanation of treatment and charges (§§781.301(6); 781.303(7); 781.304(a); 781.309(5); and 781.313(b))

\_\_\_ Failure to discourage others from making exaggerated or false claims (§781.304(i))

\_\_\_ Failure to protect individual from harm resulting from individual or group setting (§781.304(o))

\_\_\_ Failure to inform client about testing as part of treatment (§781.307(a))

\_\_\_ Appropriate, reproduce, or modify published tests or parts thereof without publisher's permission (§781.307(b))

- ~~\_\_\_\_\_ Failure to report name or address change to the Council within 30 days of change (§781.312(c))~~
- \_\_\_\_\_ Failure to set and maintain proper supervisor-supervisee relationship (§781.404(b)(10)(E) and (L))
- \_\_\_\_\_ Failure to ensure supervisee knows of, and complies with, all Council rules (§781.404(b)(10)(K))
- \_\_\_\_\_ Failure to develop and implement written supervision remediation plan (§781.404(b)(11)(G))
- \_\_\_\_\_ Failure to keep accurate records, keep records for appropriate retention period (§§781.304(f); 781.309(1) and (4))
- \_\_\_\_\_ Failure to assess proper fee(s), maintain accurate billing records (§§781.304(g); 781.310(d))
- \_\_\_\_\_ Failure to establish a plan for custody of records when professional services cease (§781.309(3))
- \_\_\_\_\_ Failure to maintain written release of information in permanent record, review and update (§781.311(e))
- \_\_\_\_\_ Failure to maintain and timely submit accurate supervised experience records (§781.404(b)(10)(A))
- \_\_\_\_\_ Make misleading, exaggerated, or false claims (§§781.301(2); 781.304(h); 781.306(a) and (b); 781.316(a), (c), and (d))
- \_\_\_\_\_ Failure to base all services on an assessment, evaluation or diagnosis of the client; evaluate client's condition without personally interviewing client or disclosing that a personal interview has not been completed (§§781.301(5); 781.303(3))
- \_\_\_\_\_ Failure to maintain client confidentiality except when disclosure is prescribed by statute or Council rules (§§781.301(7); 781.309(6); 781.311(b) and (g))
- \_\_\_\_\_ Failure to set and maintain professional boundaries and avoid dual relationships (§§781.301(8); 781.304(e), (l), and (q))
- \_\_\_\_\_ Failure to evaluate a client's progress on a continuing basis to guide service delivery and make use of supervision and consultation as indicated by client's needs (§781.301(12))
- \_\_\_\_\_ Failure to inform other provider when providing concurrent therapy (§781.303(1))
- \_\_\_\_\_ Failure to obtain informed consent (or court order) with all related items (§781.303(9))
- \_\_\_\_\_ Engage in activities for personal needs or for personal gain; promotion of personal or business activities that are unrelated to the current professional relationship (§781.304(d) and (p))
- \_\_\_\_\_ Accept from or give gift to a client with a value in excess of \$25.00 (§781.304(m))
- \_\_\_\_\_ Failure to comply with Texas Health and Safety Code concerning access to mental health records; release information only with a written permission signed by client or client guardian (§781.311(c) and (d))
- \_\_\_\_\_ Failure to report alleged violation to the Council (except sexual misconduct) (§781.312(b))

- \_\_\_\_\_ Failure to assume responsibility for human subject's emotional, physical, and social welfare when conducting research (§781.317(a))
- \_\_\_\_\_ Failure to provide written information to parties in child custody or adoption evaluations (§781.322(h)(1) and (2))
- \_\_\_\_\_ Charge or collect a fee or anything of value from employee or contract employee for supervision (§781.404(b)(10)(C))
- \_\_\_\_\_ Provide supervision to an individual who is related within the second degree of affinity or consanguinity (§781.404(b)(10)(F))
- \_\_\_\_\_ Failure to develop and update supervision plan (§781.404(b)(10)(P))
- \_\_\_\_\_ Failure to terminate non-beneficial counseling relationship; transfer client to appropriate care (§§781.301(13); 781.303(2))

**Level 4: Probated Suspension** (Admin Penalty: not less than \$250; no more than \$2,000 per day)

- \_\_\_\_\_ Refusing to serve a client based solely on basis of prohibited discrimination (§781.301(1))
- \_\_\_\_\_ Failure to practice within scope of competency and accepted professional standards as appropriate to client's needs (§§781.301(3), 781.302(d), (e), and (g)-(i); 781.303(4); 781.321(ff); 781.322(i))
- \_\_\_\_\_ Exploiting a position of trust with client or former client (§781.301(11))
- \_\_\_\_\_ Failure to assume responsibility for clients during bartering of services (§781.303(8))
- \_\_\_\_\_ Entering into a business relationship with a client (§781.304(c))
- \_\_\_\_\_ Failure to provide services in the context of a professional relationship (§781.304(j))
- \_\_\_\_\_ Borrowing or lending money or items of value to clients or relatives of clients (§781.304(n))
- \_\_\_\_\_ Failure to report alleged sexual misconduct to the Council (§781.305(g)(1)-(4))
- \_\_\_\_\_ Failure to administer or interpret test only with training and experience (§781.307(c))
- \_\_\_\_\_ Failure to retain and dispose of client records in ways that maintain confidentiality (§781.309(2))
- \_\_\_\_\_ Knowingly or flagrantly overcharging; bill for improper, unreasonable or unnecessary services (§781.310(c) and (e))
- \_\_\_\_\_ Failure to report information concerning abuse or neglect of minors, elderly, or disabled; report exploitation by a mental health services provider (§781.311(f)(1-4))
- \_\_\_\_\_ Failure to ensure subject's identity and confidentiality when obtaining data from a professional relationship for purposes of research (§781.317(b))
- \_\_\_\_\_ Providing therapy or any other type of service, including but not limited to a child custody evaluation or parenting facilitation, in the same case (§§781.320(e); 781.321(d); 781.322(f))

- \_\_\_ Failure to supervise only supervisees within scope of competency (§781.404(b)(1))
- \_\_\_ Failure to clearly indicating services, licensure category, and that supervisee is under supervision on billing documentation (§781.404(b)(10)(H))
- \_\_\_ Failure to address issues outlined in Council ordered supervision (§781.404(b)(12)(B))

**Level 3: Suspension** (less than a year, Admin Penalty: not less than \$250; no more than \$3,000 per day)

- \_\_\_ Practice while impaired by alcohol or drugs or use any illegal drug; promote, encourage, or concur in the illegal use or possession of alcohol or drugs (§§781.301(10) and 781.308)
- \_\_\_ Offer to pay or agree to accept any remuneration for securing or soliciting clients or patronage (§§781.304(b); 781.310(a) and (b))
- \_\_\_ Provide expert opinion or recommendation without conducting appropriate child custody evaluation (§781.322(g))
- \_\_\_ Failure to maintain qualifications of supervisory status while providing supervision (§781.404(b)(9))
- \_\_\_ Provide supervision without having met all requirements for current, valid Council-approved supervisor status (§781.404(b)(10)(J))
- \_\_\_ Failure to inform all supervisees of termination of supervisor status and help them to find alternate supervision (§781.404(b)(10)(M))

**Level 2: Suspension** (one year or more, Admin Penalty: not less than \$250; no more than \$4,000 per day)

**Level 1: Revocation** (Admin Penalty: not less than \$250; no more than \$5,000 per day)

- \_\_\_ Engage in sexual misconduct; therapeutic deception (§§781.301(9); 781.305(b) and (c))
- \_\_\_ Aid or abet unlicensed practice (§781.303(5))
- \_\_\_ Participate in falsifying documents submitted to the Council (§781.303(6))
- \_\_\_ Continue to supervise or fail to refund all supervisory fees paid after termination or expiration of supervisor status (§781.404(b)(10)(N) and (O))