

TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS



MEMBERS OF THE BOARD

Steven Hallbauer, Board Chair
Christopher Taylor, LPC-S Board Vice-Chair
Dr. Loretta J. Bradley, LPC-S
Brenda S. Compagnone, LPC-S
Dr. Jodie Elder, LPC-S
Vanessa Hall
Garrett Nerren
Roy Smith
Janie Stubblefield, LPC-S

Cristina De Luna
Board Administrator

MEETING MINUTES February 12, 2021

The Texas State Board of Examiners of Professional Counselors Meeting met via Zoom video conference on February 12, 2021. The following Board members were in attendance: Steven Hallbauer-Chair, Dr. Christopher Taylor-Vice Chair, Dr. Loretta Bradley, Brenda Compagnone, Dr. Jodie Elder, Vanessa hall, Garrett Nerren, Janie Stubblefield. Board Member, Roy Smith, was absent. Also, in attendance was Cristina De Luna, Board Administrator of LPC.

Friday, February 12, 2021

- 1.The meeting was called to order at 9:04 a.m. by Chair Steven Hallbauer.
- 2.The Board moved into Item II, Introduction of members and staff.
- 3.The Board moved into Item III, Meeting Minutes.

A MOTION WAS MADE BY DR. CHRISTOPHER TAYLOR AND SECONDED BY DR. LORETTA BRADLEY TO APPROVE THE MINUTES OF THE NOVEMBER 6, 2020 BOARD MEETING AS SUBMITTED. THE VOTE WAS APPROVED UNANIMOUSLY.

A MOTION WAS MADE BY JANIE STUBBLEFIELD AND SECONDED BY DR. LORETTA BRADLEY TO APPROVE THE MINUTES OF THE DECEMBER 8, 2020 BOARD MEETING AS SUBMITTED. THE VOTE WAS APPROVED UNANIMOUSLY.

- 4.The Board moved into Item IV, Discussion and possible action regarding continuation of recording meeting minutes.

A MOTION WAS MADE BY JANIE STUBBLEFIELD AND SECONDED BY DR. JODIE ELDER TO TABLE THE TOPIC FOR FUTURE DISCUSSION. THE VOTE WAS APPROVED UNANIMOUSLY.

STAFF IS DIRECTED TO CONTINUE WITH CURRENT PROCESS OF MEETING MINUTES TO INCLUDE A TIME STAMP INDEX OF EACH AGENDA ITEM.

- 5.The Board moved into Item V, Discussion of Executive Order on Increasing Economic and Geographic Mobility.

NO MOTION WAS NECESSARY. THE BOARD IS IN FAVOR OF COMPACT.

- 6.The Board moved into Item VI, Board review and possible action regarding Application Denial(s).

NO DENIALS AT THIS TIME FOR REVIEW

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7.The Board moved into Item VII, Discussion and possible action regarding petition related to §681.13.

NO ACTION TAKEN TO PETITION AT THIS TIME DUE TO PENDING RESPONSE FROM ATTORNEY GENERAL OFFICE. WILL BE DISCUSSED AT A LATER TIME.

8.The Board moved into Item VIII, Discussion and possible action regarding petition related to §681.91.

BOARD TOOK NO ADDITIONAL ACTION ON DENIED PETITION.

BOARD DIRECTED STAFF TO SCHEDULE A RULES COMMITTEE MEETING FOR DEFINITIVE LANGUAGE FOR INDEPENDENT/PRIVATE PRACTICE AND AN ANALYSIS ON ACCEPTING PAYMENT FOR SERVICES AT THE ASSOCIATE LEVEL. THE BOARD ALSO DIRECTED STAFF TO SCHEDULE A PROFESSIONAL DEVELOPMENT COMMITTEE MEETING FOR REVIEW ON THE DIFFERENCE BETWEEN THE TWO MENTAL HEALTH EXAMS AND AN ANALYSIS OF SUPERVISOR LIABILITY AND REVIEW COMPLAINTS AGAINST LPC-ASSOCIATES VS. LPC.

A MOTION WAS MADE BY JANIE STUBBLEFIELD AND SECONDED BY DR. LORETTA BRADLEY. THE VOTE WAS APPROVED UNANIMOUSLY.

Public Comment on Topic:

- Dr. Summer Allen with LPC Associates of Texas supports petition. Dr. Allen noted that about 50% of other jurisdictions allow non fully licensed counselors to have a private practice. Data was pulled from emails, phone calls, and state website using Q&A's. Appears this has changed within the last two to four years. Clarified that Tennessee does not allow lowest level of licensure to have private practice. Will continue to gather data and clarify what she is asking. Biggest difference is the exam between LPC and LMFT. There is a board that is doing this. Does not currently license LPC-Associates. Has been working on gathering additional data. To join the LPC Associates of Texas, the individual must: 1) graduate counseling students 2) LPC-Associates or 3) LPC's who have not been licensed for more than a year.
- Dr. Katherine Bacon with Texas Counseling Association supports the discussion of the topic.
- Mario De La Garza with Texas Association for Counselor Education and Supervision supports petition.
- Linda Ledwig supports petitions.
- John Waggoner supports petition.
- Loreal Starkweather supports petition.
- Dr. Kathy Ybanez-Llorente Associate Professor at Texas State University supports the petition and further discussion on the topic due to supervisor liability.
- Jamie Talfan supports the petition.
- Ashley Goaley supports the petition.
- Rodney Smith supports the petition.
- Ellie Brown supports the petition.
- Dr. Russ Bartey supports the petition. Request the board to define independent practice.
- Dr. Malinda Fossile Leighright does not support the petition currently; may need guideline and rules in place with supervisor and/or board.
- Dr. Franklin supports the petition but thinks there needs to be some type of collaboration and training to the LPC-Associate to operate a private practice and limit the liability on a supervisor.
- Ebony Hamilton supports the petition.
- Leah McDill supports the petition but requests the board to clarify liability on the supervisor. Also, requests the board add a limit of LPC-Associates that can be under a supervisor.
- Liz Walker supports the petition.

- Julia Wesley supports the petition.
- Brittany Hudson supports the petition.
- Jenna Hull does not support the petition.
- Denise Guillary does not support the petition.
- LaShansta Bell supports LPC's being able to have a private practice as MFT's can. LPC-Associates may need additional training to have a private practice. LPC supervisors should not be held liable for mistakes made by an LPC-Associate in private practice.
- Brook Blanton noted this discussion has encouraged her to possibly switch over to the MFT track.
- Valerie Rogers does not support the petition.
- Anisha Baxter supports the petition.
- ZBraz appreciates the employer for all their work.
- Mary Jackson supports the petition.

Board Discussion on Topic.

- Dr. Christopher Taylor appreciates the subject being brought up. Disagrees with argument that just because another board allows certain rules doesn't necessarily mean that the LPC Board should. From the data gathered by Dr. Allen, is the data based on W2 or 1099 employees? Is the data based on an individual who works 30 hours a week to be federal minimum to require health insurance benefits? Fee splitting is an exchange for a referral. 1099 vs. W2. As a licensing board do we have the authority to tell someone how to hire. Should a standard across all professions be set? Wish there was a better way to match Associates to Supervisors and noted thinks the professional organizations may be able to contribute to the issue and help Associates to know they can look for other Supervisors and don't have to stay with just the one they can locate but thinks this is a larger issue for the profession. If LPC-Associates feel that there are ethical violations by supervisors, they really should file a complaint. Wants to avoid Associates vs. Supervisor issue.
- Dr. Loretta Bradley asked which avenue better protects the public? Are there unintentional consequences that can rise from a change? Also noted, the board may want to consider if the more knowledge-based exam is the NCE and the more clinical based exam is the NCMHCE. Is there data? Notes that there are two separate issues here and is very concerned about what she is hearing. Agrees there are two different issues. Could TCA or TACES has data on professional identity within the profession. Wants to ensure whatever decision the board makes that they do not lose site of their role to protect the public. Be sure to take a look at the broader picture and ensure no unintended consequence that can come from this.
- Dr. Jodie Elder noted she wants to ensure the board considers how the decision may impact Texas overall. Also, supports looking at what other states are doing on this topic. Dr. Jodie Elder noted, Mary Alice Olsen, working on the Interstate Compact, noted the only state that allows LPC-Associate to work in full independent practice is Tennessee. She also noted, LMFT's can work in private practice based on the national exam taken. Dr. Jodie Elder would like to clarify LMFT supervisors share liability with Associates vs LPC language appears to say full responsibility will fall on the LPC supervisor. Requests the board to consider the current language in LPC rule. How much of this is a cultural in the field in general where LPC's might not be valued and how much is in the jurisdiction of the Board. Fee splitting vs. a commission. Wants to ensure supervisor liability is discussed further. Request for data on LPC-Associates vs. LPC's. Also, data on LMFT's in private practice vs. those in an agency setting.
- Brenda Compagnone – Salary: LPC's are not on the same level of a Social Worker. Hands on experience is crucial in this profession. Liability for LPC supervisors overseeing LPC-Associates.
- Janie Stubblefield noted that it is so important for LPC-Associates to find a supervisor who is a role model and not deal with someone who is taking advantage. New graduates are the future of the

profession and we should be sure they can make a living. Are there income disparities between all four professions? Should a standard across all professions be set?

- Garret Nerren questions how other states handle the issue.
- Darrel Spinks if someone is hired as an “independent contractor” they are “independent” which means they are in independent practice, which they can not do.

9.The Board moved into Item IX, Discussion and possible action regarding petition related to §681.92.

A MOTION WAS MADE BY DR. JODIE ELDER AND SECONDED BY DR. CHRISTOPHER TAYLOR TO DENY THE PETITION BASED ON CURRENT LANGUAGE IN STATUTE. THE MOTION WAS ACCEPTED UNANIMOUSLY.

10.The Board moved into Item X, Discussion and possible action, regarding orders from first quarter to be executed by Board Chair.

A MOTION WAS MADE BY DR. LORETTA BRADLEY AND SECONDED BY JANIE STUBBLEFIELD TO ACCEPT THE ORDER FOR COMPLAINT 1061-17-0045.

VICE CHAIR CHRISTOPHER TAYLOR RECUSED FROM VOTING ON ORDER FOR COMPLAINT 1061-17-0045.

11.The Board moved into Item XI, Report regarding final orders executed by Council Executive Director.

ORDERS EXECUTED BY EXECUTIVE DIRECTOR. NO MOTION NEEDED.

12. The Board moved to Item XII, Report regarding Enforcement Actions, Complaint Dismissals, and Status Report.

NO ACTION NEEDED

13.The Board moved into Item XIII, Discussion and possible action concerning Committee Reports:

- A. Professional Development Committee Report related to proposed updates to the Jurisprudence Exam and review of exam feedback.

Janie Stubblefield provided an update on Jurisprudence Exam. Committee referred the social media topic to the Rules Committee will continue to work on jurisprudence exam specific to supervisors. No motion necessary.

- B. Rules Committee Report regarding proposed changes to board rules;

- a. §681.2
- b. §681.72
- c. §681.73
- d. §681.82
- e. §681.83
- f. §681.114

A MOTION WAS MADE BY JANIE STUBBLEFIELD AND SECONDED BY DR. JODIE ELDER TO ACCEPT PROPOSED LANGUAGE FOR 681.2. THE VOTE WAS ACCEPTED UNANIMOUSLY.

A MOTION WAS MADE BY JANIE STUBBLEFIELD AND SECONDED BY DR. CHRISTOPHER TAYLOR TO ACCEPT PROPOSED LANGUAGE FOR 681.72. THE VOTE WAS ACCEPTED UNANIMOUSLY.

A MOTION WAS MADE BY DR. CHRISTOPHER TAYLOR AND SECONDED BY DR. LORETTA BRADLEY TO ACCEPT PROPOSED LANGUAGE FOR 681.73. THE VOTE WAS ACCEPTED UNANIMOUSLY.

A MOTION WAS MADE BY JANIE STUBBLEFIELD AND SECONDED BY DR. JODIE ELDER TO ACCEPT PROPOSED LANGUAGE FOR 681.82. THE VOTE WAS ACCEPTED UNANIMOUSLY.

NO ACTION WAS TAKEN TO PROPOSED LANGUAGE 681.83. WILL REFER BACK TO RULES COMMITTEE FOR FURTHER REVIEW.

A MOTION WAS MADE BY JANIE STUBBLEFIELD AND SECONDED BY DR. CHRISTOPHER TAYLOR TO ACCEPT PROPOSED LANGUAGE FOR 681.114. THE VOTE WAS ACCEPTED UNANIMOUSLY.

14. The Board moved to Item XIV, Texas Behavioral Health Executive Council updates.

BHEC has reduced the percentage threshold on renewals from 10% to 5% on automatic audits for renewals. BHEC is also working with the boards to identity standardization on definitions and rules that can translate across the boards.

15. The Board moved into Item XV, Board Chair Report and update concerning current challenges and accomplishments; interaction with stakeholders, state officials, and staff; committee appointments and functions; workload of Board members; and general information regarding the routine functioning of the Board.

The Expert Witness Program has been developed and available to BHEC legal staff for necessary complaint cases where an impartial professional may provide expert witness testimony on a case. Dr. Jodie Elder has been appointed to MFT and this will be her last LPC meeting.

16. The Board moved into Item XVI, Board Administrator's Report concerning program operations; customer service accomplishments and challenges; workload processing; and general information regarding the routine functioning of the licensure program and enforcement compliance.

Board Administrator provided an update on licensing operations and processes. Also provided an update on Compliance Report for Agreed Orders.

17. The Board moved into Item XVII, Operations Manager Report and Update, including unit organization and staffing; customer service accomplishments and challenges; workload processing and general information regarding the routine functioning of the program.

Operations Manager provided an update related to the new "How To Guide" that is now available on the BHEC website to assist with online processes.

18. The Board moved into Item XVIII, Council Executive Director report regarding legislation updates.

BHEC Executive Director Darrel Spinks discussed Legislative Bills being monitored.

19. The Board moved into Item XIX. Discussion and possible action related to State Office of Administrative Hearings (SOAH) cases.

Board Administrator provided an updated noting BHEC Legal staff continue to work on scheduling cases for administrative hearings. LPC currently has two cases pending and one case to schedule to SOAH.

20. The Board moved into Item XX. Public comment.

- Tom Kennedy Ethics Chair for the Texas Christian Counselors of Texas. Sandra Martin unavailable. Holding a virtual conference February 18-20 and would like to invite those interested; cctx.org.
- Kathy Ibanez-Llorente thanked the board for their work and interest in the Counseling Compact for Texas which will help with portability for licensure.
- Sharon Ward appreciates the broadcasting of meetings. Suggests that marking the time while the meeting is going on. Has a concern that many therapists do not have training in tax law, finance, or business and can bog down a practice; would like to see this be part of training for a therapist. Will there still be an option for those who are visually impaired to complete paper renewals?
- Dr. Katherine Bacon, Texas Counseling Association thanks the board for their work and supports the Counseling Compact. TCA is looking for as sponsor for the Compact legislation. Would like to reengage with the Committees.
- Jessica Bolinger LPC in private practice and has recently become aware of criminal history language under BHEC and would like feedback on the language.
- Mario De La Garza, Texas Association of Counselors Education and Supervision thanks the board for their work and would also like to make the Committee meetings to be open to public. Waiting to hear back from Attorney General opinion regarding the non-discrimination language in rule. Also, noted selected board members will be participating in TACES virtual conference at the end of the month.

21. The Board moved into Item XXI. Items for consideration for future committee and Board meeting agendas.

None

22. The Board moved into Item XXII, Announcements and comments not requiring Board action, such as statements regarding conferences, future board meetings, and other recent or upcoming events.

- Next virtual board meeting is scheduled for May 7th
- TACES Conference is at the end of February. On February 26th the LPC Board will be presenting virtually at 1pm.
- Christian Counselors of Texas will have their conference from the 18th – 20th.

23. Adjournment

A MOTION WAS MADE BY DR. JODIE ELDER AND SECONDED BY DR. CHRISTOPHER TAYLOR TO ADJOURN THE MEETING. THE MOTION WAS APPROVED UNANIMOUSLY.



May 7, 2021

Chair Steven Hallbauer

TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS
February 12, 2021 Full Board Meeting

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