

Texas State Board of Examiners of Marriage and Family Therapists

Board Meeting Agenda for
Friday, April 29, 2022, 9 a.m.

The April 29, 2022 meeting of the Texas State Board of Examiners of Marriage and Family Therapists will be held by videoconference call, as authorized under Texas Government Code section 551.127. One or more board members may appear at the scheduled meeting via videoconference call, but the presiding member will be physically present at 333 Guadalupe St., Ste. 3-900, Room 910, Austin, Texas 78701. This location will be open to the public, but seating is limited to first come, first served. Due to health and safety concerns, as well as the size of the available meeting room, public seating will be limited to four (4) individuals.

In lieu of attending in person, members of the public are encouraged to access and participate virtually in this meeting by entering the URL address <https://us02web.zoom.us/j/83768268164> into their web browser. Telephone access numbers and additional videoconference call access information can be found in the attached addendum. An electronic copy of the agenda and meeting materials will be made available at www.bhec.texas.gov prior to the meeting. A recording of the meeting will be made available on the Council's YouTube channel after the meeting is adjourned. To obtain a copy of the recording, please contact the Council's public information officer at Open.Records@bhec.texas.gov.

For members of the public wishing to give public comment, after the meeting convenes and once the public comment item is reached on the agenda, the presiding member will allow those who are attending in person to give public comment first and then ask those joining by computer to use the "raise hand" feature to indicate who would like to make a public comment. Those individuals who raise their hand will then be unmuted to give public comment. Once all of the individuals with raised hands have been given an opportunity to make public comment, the individuals appearing by telephone will be unmuted and asked whether they would like to make a public comment. Please note that public comment is not intended for a discussion or a question-and-answer session with the board members. Additionally, when making a 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, you may submit written public comments via email to General@bhec.texas.gov in advance of the meeting. Please use the email subject line "Public Comment for (enter date of meeting here) Meeting" to ensure your comments are identified as such and directed accordingly. Only those written public comments received by 5 p.m. on the last business day prior to the meeting will be submitted to the board members for their consideration. No written comments received will be read aloud during the meeting.

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 Council at least 5 working days before the meeting date. PHONE: (512) 305-7700, EMAIL: General@bhec.texas.gov, 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, Ch. 551.

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

MFT BOARD MEETING AGENDA FOR FRIDAY, APRIL 29, 2022, 9 A.M. (Merchant, Bartee, Elder, Francis, Husband-Thompson, Parrish, Scoma, Smith, Stoglin)

1. Call meeting to order.
2. Approval of minutes of the January 21, 2022, videoconference Board meetings.

3. Board review and possible action regarding appeals of application for licensure denials, including Tania Andrews.
4. Board review and possible action regarding agreed orders to be executed by the Board.
5. Board review and possible action regarding contested cases from the State Office of Administrative Hearings (SOAH).
6. Report of agreed orders executed by the Council's Executive Director.
7. Report of cases dismissed by the Council's Executive Director.
8. Status report of quarterly enforcement case activities.
9. Report of compliance with agreed orders.
10. Report from Committee Chairs per Title 22 of the Texas Administrative Code, §801.11(f):
 - A. Report from Ethics Committee Chair Rev. Dr. Scoma.
 - B. Report from Licensing Standards Committee Chair Dr. Merchant.
 - C. Report from Outreach Committee Chair Dr. Merchant.
 - D. Report from Professional Development Committee Chair Mrs. Husband-Thompson.
 - E. Report from Rules Committee Chair Mr. Francis.
11. Discussion and possible action concerning recommendations from the March 18, 2022 Rules Committee meeting, including
 - A. Changes to the MFT Guidelines for Using Social Media;
 - B. Changes to Title 22 of the Texas Administrative Code (22 TAC), §801.2 *Definitions*: to add definition for Clinical Direct Services to Couples or Families to clarify for LMFT Supervisors, LMFT Associates, and staff which hours may be counted toward this category of LMFT supervised experience requirements.
 - C. Changes to 22 TAC §801.43 *Professional Representation*: to clarify how supervisees must represent themselves to clients and the public, such that the LMFT Associate must not represent themselves as an independent practitioner and the Associate's name must be followed by a statement such as "supervised by (name of supervisor)." This disclosure must appear on all marketing materials, billing documents, and practice related forms and documents where the Associate's name appears, including websites and intake documents. The amendment includes an effective date to allow licensees time to update systems, documents, and advertisements to comply with rule.
 - D. Changes to 22 TAC §801.302 *Severity Level and Sanction Guide*: to clarify and simplify the guide by combining Level Two and Level Three into a single level for suspension of a license for any amount of time; to increase the possible administrative penalty to the maximum amount allowed by law; and to replace "termination" with "suspension" for accuracy.
 - E. Changes to 22 TAC §801.305 *Schedule of Sanctions*: to a simple grid by removing rule descriptions.
12. Discussion and possible action regarding jurisprudence exam:
 - A. Discussion and possible action concerning the quarterly summary from the Texas State Board of Examiners of Marriage and Family Therapists' Jurisprudence Exam vendor.
 - B. Discussion and possible action related to changes in the Board's Jurisprudence Exam.
13. 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.
14. Report from the Board's Delegates to the Texas Behavioral Health Executive Council regarding the activities of the Executive Council, including
 - A. The Council's rulemaking actions taken at its February 1, 2022 meeting.

B. Other Council updates.

15. 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.
16. Discussion and possible action regarding future priorities and activities of the Board.
17. Public Comment.
18. Announcements and comments not requiring Board action, such as statements regarding conferences and other recent or upcoming events.
19. 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 Examiners of Marriage and Family Therapists
general@bhec.texas.gov

Addendum: Additional Videoconference and Telephone Conference Call Information

When: Apr 29, 2022 09:00 AM Central Time (US and Canada)

Topic: Texas State Board of Examiners of Marriage and Family Therapists' April 29, 2022 meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/83768268164>

Or One tap mobile :

US: +13462487799,,83768268164# or +12532158782,,83768268164#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 253 215 8782 or +1 669 900 9128 or +1 312 626 6799 or +1 646 558 8656 or +1 301 715 8592

Webinar ID: 837 6826 8164

International numbers available: <https://us02web.zoom.us/j/83768268164>

COMPLAINT NO. 2022-00093

IN THE MATTER OF

§ BEFORE THE TEXAS BEHAVIORAL
§ HEALTH EXECUTIVE COUNCIL
§
§ THE TEXAS STATE BOARD
§ OF EXAMINERS OF
§ MARRIAGE AND FAMILY
§ THERAPISTS

JOHN DAKIN

AGREED ORDER FOR ELIGIBILITY

Pursuant to its authority under §507.305 of the Texas Occupations Code, §2001.056 of the Government Code, and 22 Texas Administrative Code §884.12(e), the Executive Director for the Texas Behavioral Health Executive Council (“Council”) hereby approves, ratifies, and enters this Agreed Order for Eligibility with the following Findings of Fact, Conclusions of Law, and Order of the Texas Behavioral Health Executive Council (“Council”), which have been approved and accepted by John Dakin (“Respondent”).

FINDINGS OF FACT

1. Respondent is currently an applicant for licensure as a marriage and family therapist and is, therefore, subject to the jurisdiction of the Council under the Act.
2. From on or about January 31, 2020 to present, Respondent has practiced with an expired license.

CONCLUSIONS OF LAW

1. Respondent voluntarily submitted an application to the Council and, therefore, is bound by the provisions of Chapters 502 and 507 of the Texas Occupations Code and the Rules of the Council, 22 Texas Administrative Code Parts 35 and 41.
2. Respondent’s unlicensed practice constitutes a violation of Texas Occupations Code §502.251(a), (b), and (c).
3. Based on the above-stated Findings of Fact, Respondent’s application is subject to abatement for up to 180 days, pursuant to Council Rule §882.10, before the Council must render a decision upon the application.

ORDER

IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:

Respondent shall, within ninety (90) days of the effective date of this order and prior to the issuance of a license, do the following:

1. Respondent is assessed and shall pay an administrative penalty in the total amount of \$1,500, of which \$1,400 represents administrative costs and \$100 represents administrative penalty.

In the event Respondent fails to comply with any term of this order required to be completed prior to licensure, Respondent's license application shall be denied, without further hearings, informal settlement procedures, or any right of appeal for judicial review, and the Council shall not consider a subsequent application for licensure from Respondent, and Respondent agrees not to apply for any new license from the Council for one year from the effective date of this order.

WARNING

RESPONDENT'S FAILURE TO COMPLY WITH ONE OR MORE TERMS OF THIS ORDER MAY CONSTITUTE A VIOLATION OF 22 TEXAS ADMINISTRATIVE CODE §884.55 REQUIRING FURTHER DISCIPLINARY ACTION.

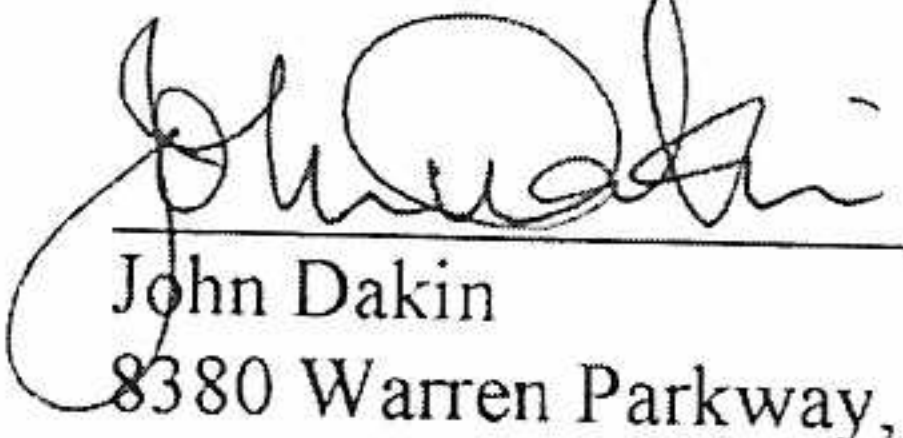
WAIVERS

On the underlying licensing/professional/investigative file, Respondent has freely and voluntarily waived his or her right to an informal settlement conference, a formal hearing before an Administrative Law Judge at the State Office of Administrative Hearings (SOAH), and judicial review pursuant to Texas Government Code Chapter 2001, in exchange for the conditions set out in this Agreed Order.

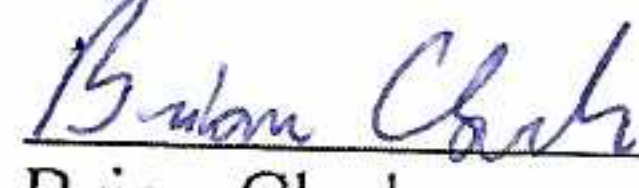
THE RESPONDENT, BY SIGNING THIS ORDER, AGREES TO ITS TERMS, ACKNOWLEDGES UNDERSTANDING OF THE FORMAL NOTICES, FINDINGS OF FACT, AND CONCLUSIONS OF LAW SET FORTH HEREIN AND COVENANTS TO SATISFACTORILY COMPLY WITH THE MANDATES OF THIS ORDER IN A TIMELY MANNER. RESPONDENT FURTHER ACKNOWLEDGES AND AGREES THAT HE OR SHE HAS AGREED TO THIS ORDER UPON THE ADVICE AND CONSENT OF COUNSEL, OR THAT HE OR SHE HAS HAD THE OPPORTUNITY TO HAVE THIS ORDER REVIEWED BY COUNSEL OF HIS OR HER CHOICE.

FOR THE RESPONDENT:

FOR THE STAFF OF THE COUNCIL:



John Dakin
8380 Warren Parkway, Suite 602
Frisco, Texas 75034




Brian Clark
Texas Bar No. 24099457
Staff Attorney
Texas Behavioral Health Executive Council
333 Guadalupe, Ste. 3-900
Austin, Texas 78701

DATE SIGNED: 2/15/22

DATE SIGNED: 2/16/22

APPROVED, RATIFIED, AND ENTERED THIS 17 DAY OF February, 2022.



Darrel Spinks
Executive Director
Texas Behavioral Health Executive Council

TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS



MEMBERS OF THE BOARD

Lisa Merchant, PhD, LMFT, Chair

Anthony Scoma, DMin, Vice Chair

Russell Bartee, PhD, LPC-S, LMFT-S

Jodie Elder, PhD, LPC-S, LMFT

George Francis, IV, MBA

Evelyn Husband-Thompson

Daniel Parrish

Jeanene Smith, MA, LPC-S, LMFT-S

Richmond Stoglin, MPA, DMin, LMFT

Member: Texas Behavioral Health Executive Council

Darrel D. Spinks
Executive Director, TBHEC

Sarah Faszholz, MBA
Board Administrator, TSBEMFT

Guidelines for Using Social Media

[changes recommended by the March 18 Rules Committee]

The mission of the Texas State Board of Examiners of Marriage and Family Therapists (“Board”) is to protect the public by ensuring that professional services are provided to the people of Texas by qualified and competent practitioners who adhere to established professional standards. This mission, derived from the Licensed Marriage and Family Therapist Act, supersedes the interest of any individual or special interest group. It is with this mission in mind that the Board set out to develop these guidelines for using social media.

Social media, as that term is used herein, is an umbrella term that includes the various activities that integrate technology and social interaction such as websites, microblogging (e.g., Facebook and Twitter), and all other forms of social networking.

When using social media, members of the profession are called upon to consider their ethical and professional responsibilities and the context in which social media are being used, and then to use their professional judgment accordingly.

It is essential to consider the appropriateness of any modality used in the delivery of services or in professional communication relative to the client to be served. As with any type of modality of service delivery or communication, assuming that social media would be appropriate for use with all clients would be an error in judgment. Consideration of individual issues such as culture, language, access to technology, client comfort and competence with technology, service needs, as well as the professional’s competence in using the modality, are all important.

Licensees who choose to use social media in their practice should take precautions to be mindful and remain in compliance with all relevant ethical, professional, and legal responsibilities, in addition to policies and guidelines in Texas. Below are guidelines that licensees should consider when using social media with clients.

- Maintain appropriate professional boundaries with clients and their surrogates, whether online or in person.
- Use separate professional and personal web pages and profiles for social media to clearly distinguish between the two kinds of virtual presence. Therapists should be aware that personal information they disclose through electronic means may be broadly accessible in the public domain and may affect the therapeutic relationship.
- Politely turn down requests from clients to connect on personal social networking sites. It may be acceptable for the therapist to accept requests on the therapist’s professional accounts, provided that the account is used for professional purposes only.

- Evaluate the appropriateness of using specific social media with each client, considering such individual issues such as culture, language, service needs, access to technology, client comfort and competence with technology.
- Ensure that the proper informed consent is conducted prior to engaging in social media with clients.
- Provide business practices and professional services in a manner that safeguards the privacy and confidentiality of clients.
- Do not provide professional services to specific clients online unless this is done via the secure portal of a practice or institution.
- Do not disclose individually identifiable protected health information or post images or videos online.
- Communicate and engage in social media in personal and professional settings with civility and respect for others.
- Consider any social media post as permanent, even after it has been deleted.
- Maintain current knowledge and training on social media platforms being used in the [professional counseling] practice of marriage and family therapy pertaining to all individuals, devices, and accounts.
- Upon discovery of unprofessional or inappropriate content online posted by a professional colleague, notify the individual so that they may remove the post or change their methods of communicating.
- When marketing your practice online, be sure to adhere to laws and rules governing advertising.
- Avoid viewing your clients' presence on social media unless given consent to view such information.

The Texas Behavioral Health Executive Council has the authority to discipline licensees for unprofessional behavior relating to the inappropriate use of social media. Disciplinary actions range from an administrative penalty to the revocation of a license. Examples of unprofessional behavior can include:

- Inappropriate communication with clients online
- Online sexual misconduct
- Use of the internet for unprofessional behavior
- Online misrepresentation of credentials
- Online violations of client confidentiality
- Failure to reveal conflicts of interest online
- Online derogatory remarks regarding a client
- Any engagement in online discriminatory language or practices

Licensees should review [all Council rules](#), particularly [22 TAC §801.58 Technology-Assisted Services](#), for enforceable minimum standards of practice. Licensees are also encouraged to review the [Teletherapy & Telesupervision Guidelines II \(August 2021\)](#) published by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB), and incorporate those best practices where congruent with federal and state law.

Rule: 801.2. Definitions

Action: Proposed Amendment

Comment: The proposed amendment adds a definition for direct clinical services to couples or family for the purpose of providing greater clarity in the rules.

§801.2. Definitions. The following words and terms, when used in this chapter, have the following meanings unless the context indicates otherwise.

- (1) Accredited institutions or programs--An institution of higher education accredited by a regionally accrediting agency recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education.
- (2) Act--Texas Occupations Code, Chapter 502, the Licensed Marriage and Family Therapist Act.
- (3) Board--The Texas State Board of Examiners of Marriage and Family Therapists.
- (4) Client--An individual, family, couple, group, or organization who receives or has received services from a person identified as a marriage and family therapist who is either licensed by the council or unlicensed.
- (5) Council--The Texas Behavioral Health Executive Council.
- (6) Council Act--Texas Occupations Code, Chapter 507, concerning the Texas Behavioral Health Executive Council.
- (7) Council rules--22 Texas Administrative Code, Chapters 801 and 881 to 885.
- (8) Direct clinical services to couples or family--professional services provided to couples or families in which a clinician delivers therapeutic services with two or more individuals simultaneously or two or more individuals from the same family system within the same therapeutic session. Individuals must share an ongoing relationship beyond that which occurs in the therapeutic experience itself. Examples of ongoing relationships include family systems, couple systems, enduring friendship/community support systems, and residential, treatment or situationally connected systems.
- ~~(9)~~(8) Endorsement--The process whereby the council reviews licensing requirements that a license applicant completed while under the jurisdiction of an out-of-state marriage and family therapy regulatory board. The council may accept, deny or grant partial credit for requirements completed in a different jurisdiction.

- ~~(10)~~~~(9)~~ Executive director--the executive director for the Texas Behavioral Health Executive Council.
- ~~(11)~~~~(10)~~ Family system--An open, on-going, goal-seeking, self-regulating, social system which shares features of all such systems. Certain features such as its unique structuring of gender, race, nationality and generation set it apart from other social systems. Each individual family system is shaped by its own particular structural features (size, complexity, composition, and life stage), the psychobiological characteristics of its individual members (age, race, nationality, gender, fertility, health and temperament) and its socio-cultural and historic position in its larger environment.
- ~~(12)~~~~(11)~~ Group supervision--Supervision that involves a minimum of three and no more than six marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.
- ~~(13)~~~~(12)~~ Individual supervision--Supervision of no more than two marriage and family therapy supervisees or LMFT Associates in a clinical setting during the supervision hour.
- ~~(14)~~~~(13)~~ Jurisprudence exam--An online learning experience based on the Act, the Council Act, and council rules, and other state laws and rules relating to the practice of marriage and family therapy.
- ~~(15)~~~~(14)~~ License--A marriage and family therapist license, a marriage and family therapist associate license, a provisional marriage and family therapist license, or a provisional marriage and family therapist associate license.
- ~~(16)~~~~(15)~~ Licensed marriage and family therapist (LMFT)--As defined in §502.002 of the Occupations Code, a person who offers marriage and family therapy for compensation.
- ~~(17)~~~~(16)~~ Licensed marriage and family therapist associate (LMFT Associate)--As defined in §502.002 of the Occupations Code, an individual who offers to provide marriage and family therapy for compensation under the supervision of a supervisor approved by the executive council. The appropriate council-approved terms to refer to an LMFT Associate are: "Licensed Marriage and Family Therapist Associate" or "LMFT Associate." Other terminology or abbreviations like "LMFT A" are not council-approved and may not be used.
- ~~(18)~~~~(17)~~ Licensee--Any person licensed by the council.
- ~~(19)~~~~(18)~~ Licensure examination--The national licensure examination administered by the Association of Marital and Family Therapy Regulatory Boards (AMFTRB) or the State of California marriage and family therapy licensure examination.
- ~~(20)~~~~(19)~~ Marriage and family therapy--The rendering of professional therapeutic services to clients, singly or in groups, and involves the

professional application of family systems theories and techniques in the delivery of therapeutic services to those persons. The term includes the evaluation and remediation of cognitive, affective, behavioral, or relational dysfunction or processes.

- ~~(21)~~(20) Month--A calendar month.
- ~~(22)~~(21) Person--An individual, corporation, partnership, or other legal entity.
- ~~(23)~~(22) Recognized religious practitioner--A rabbi, clergyman, or person of similar status who is a member in good standing of and accountable to a legally recognized denomination or legally recognizable religious denomination or legally recognizable religious organization and other individuals participating with them in pastoral counseling if:
- (A) the therapy activities are within the scope of the performance of regular or specialized ministerial duties and are performed under the auspices of sponsorship of an established and legally recognized church, denomination or sect, or an integrated auxiliary of a church as defined in 26 CFR §1.6033-2(h) (relating to Returns by exempt organizations (taxable years beginning after December 31, 1969) and returns by certain nonexempt organizations (taxable years beginning after December 31, 1980));
 - (B) the individual providing the service remains accountable to the established authority of that church, denomination, sect, or integrated auxiliary; and
 - (C) the person does not use the title of or hold himself or herself out as a licensed marriage and family therapist.
- ~~(24)~~(23) Supervision--
- (A) Supervision for licensure--The guidance or management in the provision of clinical services by a marriage and family therapy supervisee or LMFT Associate, which must be conducted for at least one supervision hour each week, except for good cause shown.
 - (B) Supervision, Council-ordered--For the oversight and rehabilitation in the provision of clinical services by a licensee under a Council Order, defined by the Order and the Council-Ordered Supervision Plan, and must be conducted as specified in the Council Order and Supervision Plan (generally in face-to-face, one-on-one sessions).
- ~~(25)~~(24) Supervision hour--50 minutes.
- ~~(26)~~(25) Supervisor--An LMFT with supervisor status meeting the requirements set out in §801.143 of this title (relating to Supervisor Requirements). The appropriate council-approved terminology to use

in reference to a Supervisor is: "Supervisor," "Licensed Marriage and Family Therapist Supervisor," "LMFT-S" or "LMFT Supervisor."
Other terminology or abbreviations may not be used.

- ~~(27)~~(26) Technology-assisted services--Providing therapy or supervision with technologies and devices for electronic communication and information exchange between a licensee in one location and a client or supervisee in another location.
- ~~(28)~~(27) Therapist--A person who holds a license issued by the council.
- ~~(29)~~(28) Waiver--The suspension of educational, professional, or examination requirements for an applicant who meets licensing requirements under special conditions.

Rule: 801.43. Professional Representation.

Action: Proposed Amendment

Comment: The proposed amendment clarifies how supervisees must represent themselves to clients and the public.

§801.43. Professional Representation.

- (a) A licensee is subject to and bound by provisions of the Act, the Council Act, and council rules.
- (b) A licensee that becomes aware of another licensee violating state or federal law within the jurisdiction of the Council, may attempt to resolve the violation informally with the other licensee if the violation does not involve actual or likely harm to an individual or the public. Any unresolved violations must be reported to the Council. A licensee that becomes aware of another licensee violating a state or federal law within the jurisdiction of the Council involving actual or likely harm to an individual or the public, must report the violation to the Council.
- (c) Licensure and Supervisory Status
 - (1) When providing professional therapeutic services as defined in §801.42 of this title (relating to Professional Therapeutic Services), a licensee must indicate his or her licensure status as an LMFT or LMFT Associate, including any probationary status or other restrictions placed on the licensee by the council.
 - (2) An LMFT Associate must not represent himself as an independent practitioner. An LMFT Associate's name must be followed by a statement such as "supervised by (name of supervisor)" or a statement of similar effect, together with the name of the supervisor. This disclosure must appear on all marketing materials, billing documents, and practice related forms and documents where the LMFT Associate's name appears, including websites and intake documents. This paragraph is effective January 1, 2023.
- (d) A licensee may not make any false, misleading, deceptive, fraudulent or exaggerated claim or statement about the licensee's services, including:
 - (1) the effectiveness of services;
 - (2) the licensee's qualifications, capabilities, background, training, education, experience, professional affiliations, fees, products, or publications; or
 - (3) the practice of marriage and family therapy.
- (e) A licensee may not misrepresent any agency or organization by presenting it as having attributes that it does not possess.

- (f) A licensee may not encourage, or within the licensee's power, allow a client to hold exaggerated ideas about the efficacy of services provided by the licensee.
- (g) If a licensee learns of a misrepresentation, exaggerated, false, deceptive, or fraudulent claim or statement made by another, the licensee must take reasonable action to correct the misrepresentation, claim or statement.

Rule: 801.302. Severity Level and Sanction Guide.

Action: Proposed Amended Rule

Comment: This amended rule is proposed to make the rule clearer and simplify the guide by combining levels 2 and 3 into a suspension for any amount of time. Additionally, the possible penalty amount for a suspension is increased to a maximum of \$5,000.

§801.302. Severity Level and Sanction Guide. The following severity levels and sanction guides are based on the relevant factors in council rules, 22 Texas Administrative Code, §884.20 (relating to Disciplinary Guidelines and General Schedule of Sanctions).

- (1) Level One--Revocation of license with a possible administrative penalty from \$500 to \$5,000. These violations evidence intentional or gross misconduct on the part of the licensee or cause or pose a high degree of harm to the public or may require severe punishment as a deterrent to the licensee, or other licensees.
- (2) Level Two--~~Extended~~ suspension of license with a possible administrative penalty from \$250 to ~~\$5,000~~\$2,500. These violations involve less misconduct, harm, or need for deterrence than Level One violations, but may require suspension ~~termination~~ of licensure for a period of time ~~not less than one year~~.
- (3) ~~Level Three--Moderate suspension of license with a possible administrative penalty of no more than \$250. These violations are less serious than Level Two violations, but may require termination of licensure for a period of time that is less than a year.~~
- (3)(4) Level Three ~~Four~~--Probated suspension of licensure. These violations do not involve enough harm, misconduct, or need for deterrence to warrant suspension ~~termination~~ of licensure, yet are severe enough to warrant monitoring of the licensee to ensure future compliance. Probationary terms may be ordered as appropriate.
- (4)(5) Level Four ~~Five~~--Reprimand. These violations involve inadvertent or relatively minor misconduct or rule violations not directly involving the health, safety and welfare of the public.
- (5)(6) An administrative penalty may be assessed for any violation, in lieu of, or in addition to, other disciplinary actions.

Rule: 801.305. Schedule of Sanctions.

Action: Proposed New Rule

Comment: This new rule has been proposed to make the format of the schedule of sanctions easier to use and standardized between the other Boards. There are a few substantive changes being proposed to the schedule currently in effect. Rules that are currently split between an extended and moderate suspension are proposed to be a Level 2 suspension which aligns with the proposed changes to §801.302, which combines the two suspension levels into one, see §§801.44(t) and (v), 801.47, and 801.57(e). Additionally, a few typographical errors are being corrected with this proposed change, the sanction for 801.47 is now split into subsections (a) and (b) which are a suspension and revocation respectively. And §801.44(s) – (v) have been updated to correspond more accurately to the correct rule and sanction.

§801.305. Schedule of Sanctions.

The following standard sanctions shall apply to violations of the Texas Occupations Code, Chapter 502 and 22 Texas Administrative Code, Part 35.

Figure: 22 TAC §801.305

Rule	Level 1: Revocation	Level 2: Suspension	Level 3: Probated Suspension	Level 4: Reprimand
801.43(b)				X
801.43(c)				X
801.43(d)				X
801.43(g)				X
801.44(a)				X
801.44(b)				X
801.44(c)				X
801.44(d)				X
801.44(e)		X		
801.44(f)			X	
801.44(g)			X	
801.44(h)				X
801.44(i)				X
801.44(k)				X
801.44(l)				X
801.44(m)				X
801.44(n)			X	X
801.44(o)				X

Texas State Board of Examiners of Marriage and Family Therapists
Board Meeting – April 29, 2022

Rule	Level 1: Revocation	Level 2: Suspension	Level 3: Probated Suspension	Level 4: Reprimand
801.44(p)			X	
801.44(q)			X	
801.44(s)				X
801.44(t)		X		
801.44(u)				X
801.44(v)		X		
801.45(b)	X			
801.45(c)	X			
801.45(d)	X			
801.46(a)				X
801.46(c)			X	
801.47(a)		X		
801.47(b)	X			
801.48(b)			X	
801.48(c)			X	
801.48(d)(1)-(3)			X	
801.48(d)(4)				X
801.48(e)				X
801.48(g)			X	
801.48(h)				X
801.50				X
801.53(a)				X
801.53(d)				X
801.53(e)				X
801.53(f)				X
801.53(g)				X
801.55(e)			X	
801.56(d)			X	
801.57(d)			X	
801.57(e)		X		
801.57(f)				X
801.57(g)			X	
801.58(d)				X
801.58(h)				X
801.58(i)			X	
801.143(b)				X
801.143(c)				X
801.143(d)				X
801.143(e)				X
801.143(f)(1)				X

Texas State Board of Examiners of Marriage and Family Therapists
Board Meeting – April 29, 2022

Rule	Level 1: Revocation	Level 2: Suspension	Level 3: Probated Suspension	Level 4: Reprimand
801.143(f)(2)				X
801.143(f)(4)				X
801.143(f)(5)				X
801.143(i)				X
801.143(j)			X	
801.143(k)				X
801.143(l)			X	

14. Summary of Council's Activities

A. The Council's rulemaking actions taken at its February 1, 2022 meeting:

1. Adopted rules, affecting Title 22 of the Texas Administrative Code (22 TAC), were published in the February 18, 2022 *Texas Register* and became **effective February 27, 2022**, including:
 - [§801.2 Definitions](#) with [preamble](#), which includes reasoned justification for the rule;
 - [§801.74 Application to Take Licensure Examination](#) with [preamble](#);
 - [§881.33 Family Leave Pool](#) with [preamble](#);
 - [§882.21 License Statuses](#) with [preamble](#);
 - [§882.37 COVID-19 Vaccine Passports Prohibited](#) with [preamble](#);
 - [§882.60 Special Provisions Applying to Military Service Members, Veterans and Spouses](#) with [preamble](#);
 - [§882.61 Special Licensing Provisions for Military Spouses](#) with [preamble](#);
 - [§882.70 Emergency Temporary License](#) with [preamble](#);
 - [§884.4 Special Requirements for Complaints Alleging Violations Related to Court-ordered Therapy or Parenting Facilitator Services](#) with [preamble](#); and
 - [§885.1 Executive Council Fees](#) with [preamble](#).

Consolidated Rulebooks, available from the [Statutes and Rules webpage](#), were updated March 9, 2022 to include the above-listed newly adopted rules.

2. Proposed rules, affecting 22 TAC, were approved for publication. A copy of the proposed rules is in the Council's [February 1, 2022 Agenda and Public Meeting Materials.pdf](#), available from the Council's [Meeting Dates, Agendas, and Minutes webpage](#). Staff is working through procedures and preparing the following rules for publication in *Texas Register* with call for public comment. Staff will post notice on the [Board News webpage](#) when the proposed rules have been published, and staff will send an email message to those who subscribe to [Email Updates](#).
 - Change to §801.44 *Relationships with Clients*: to clarify that the same competency standard applies to emerging areas of practice, for which generally recognized standards for preparatory training do not yet exist.
 - New §801.261 *Requirements for Continuing Education*: to consolidate all continuing education requirements into single section, to add requirement that LMFTs and LMFT Associates complete three hours in cultural diversity or competency, to increase requirement for LMFT Supervisors to complete six hours in supervision, and other changes.
 - Change to §§801.58, 801.143, and 801.305, related to *Technology-Assisted Services*, *Supervisor Requirements*, and *Schedule of Sanctions* to align with new §801.261 and remove redundant language.
 - Repeal of §§801.263, 801.264, and 801.266 regarding *Requirements for Continuing Education*, *Types of Acceptable Continuing Education*, and *Determination of Clock Hour Credits and Credit Hours Granted*: to align with new §801.261 and remove redundant language.
 - Change to §882.2 *General Application File Requirements*: to reflect BHEC's ability to receive digitally certified self-query reports from the National Practitioner Databank (NPDB) as upload with application, forwarded by email to NPDB@bhec.texas.gov, or uploaded as a document via the Email-Us webform on the [Contact Us webpage](#).

Texas State Board of Examiners of Marriage and Family Therapists
Board Meeting – April 29, 2022

- Change to §882.22 *Reinstatement of a License*: to reflect BHEC’s ability to receive digitally certified self-query reports from NPDB; and to clarify that only a full license can be reinstated, and a transitory license used to obtain required experience for full licensure cannot.
- Change to §884.20 *Disciplinary Guidelines and General Schedule of Sanctions* to correct typographical error in (a)(4).

B. Other Council updates include but may not be limited to:

1. The Council hosted “Insights Over the Lunch Hour: An Opportunity to Visit with Executive Staff” on February 28, 2022.
2. The Council’s 2023-27 Strategic Planning Survey closed on February 15, 2022.
3. The Council’s [“Report on Customer Service for 2021”](#) has been posted on its [Forms and Publications webpage](#).