

TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS



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Member: Texas Behavioral Health Executive Council

Darrel D. Spinks
Executive Director, TBHEC

Sarah Faszholz, MBA
Board Administrator, TSBEMFT

MINUTES

Friday, July 22, 2022

The Texas State Board of Examiners of Marriage and Family Therapists met via Zoom video conference with presiding officer in-person on July 22, 2022. The following Board members were in attendance: Lisa V Merchant, PhD, LMFT, Chair; Anthony Scoma, DMin, Vice Chair; Russell F Bartee, PhD, LPC-S, LMFT-S; Jodie Elder, PhD, LPC-S, LMFT; George Francis, IV, MBA; Daniel W Parrish; Jeanene L Smith, MA, LPC-S, LMFT-S; and Richmond Stoglin, MPA, DMin, LMFT. Also, in attendance were Darrel Spinks, BHEC Executive Director; Tim Speer, BHEC Director of Operations; Patrick Hyde, BHEC General Counsel; and Sarah Faszholz, TSBEMFT Board Administrator.

1. The meeting was called to order at 9:05 a.m. by Chair Merchant.
2. The Board considered Item 2: approval of April 29, 2022, minutes of the Board meeting by videoconference with presiding officer in-person. Chaplain Stoglin made the motion to approve the minutes. Dr. Elder seconded the motion. The motion carried.
3. The Board considered Item 3: Board review and possible action regarding appeals of application for licensure denials. There were none.
4. The Board considered Item 4: Board review and possible action regarding agreed orders to be executed by the Board. There were none.
5. The Board considered Item 5: Board review and possible action regarding contested cases from the State Office of Administrative Hearings (SOAH). There were none.
6. The Board considered Item 6: Report of agreed orders executed by the Council's Executive Director. Ms. Faszholz provided copy in meeting materials.
7. The Board considered Item 7: Report of cases dismissed by the Council's Executive Director. Ms. Faszholz provided staff's report in meeting materials.
8. The Board considered Item 8: Status report of quarterly enforcement case activities. Ms. Faszholz provided staff's report in meeting materials. Dr. Merchant thanked staff for work resulting in reduction of pending and priority cases. Dr. Elder noted sharp increase in new complaints received in past quarter and asked if any board action can help reduce new complaints. Atty Hyde explained the report reflects new complaints received by all four boards. Dr. Merchant opined on possible explanation for increase might be higher awareness of complaint process, rather than higher frequency of rule violations.
9. The Board considered Item 9: Report of compliance with agreed orders. Ms. Faszholz provided staff's report in meeting materials. The Board requested staff provide additional information concerning those cases that appear to be non-compliant with orders – either in this compliance report or to the Ethics Committee when it convenes.

Atty Hyde explained that staff wishes to prevent creating conflict for board members; thus, withholds notice to the board that staff has opened complaint alleging non-compliance.

10. The Board considered Item 10: Report from Committee Chairs per 22 TAC, §801.11(f):
 - A. Report from Ethics Committee Chair Rev. Dr. Scoma. Rev. Dr. Scoma reported the Ethics Committee met on July 6, 2022, and performed its oversight role in complaint process with quarterly case audit. Rev. Dr. Scoma commended staff for their professional competence and dedication.
 - B. Report from Licensing Standards Committee Chair Dr. Merchant. Dr. Merchant reported the Licensing Standards Committee met June 2, 2022, and discussed general direction for board liaison with Standardization Work Group, Ms. Smith, regarding conditions of supervised experience and supervision requirements. Dr. Merchant noted Title 3 of the Texas Occupations Code, [Chapter 502](#), Sec. 502.252(c)(3), requires the applicant for upgrade to LMFT to complete “at least 200 hours of [supervision] ..., 100 hours of which must be supervised on an individual basis.” Thus, the statute limits the extent to which rules may be standardized among the BHEC member boards. Ms. Smith noted that Title 22 of the Texas Administrative Code (22 TAC), [§801.142\(3\)](#) states “An LMFT Associate, when providing services, must receive a minimum of one hour of supervision every week, except for good cause shown.” A number of board members affirmed the public protection provided by requiring “one hour of supervision every week.”
 - C. Report from Outreach Committee Chair Dr. Merchant. Dr. Merchant reported the Outreach Committee did not meet this quarter. Outreach Committee members: Dr. Merchant, Mr. Parrish, and Ms. Smith determined to meet September 9, 2022.
 - D. Report from Professional Development Committee Chair Husband-Thompson. On behalf of Mrs. Husband-Thompson, Ms. Faszholz reported the Professional Development Committee did not meet since last Board meeting.
 - E. Report from Rules Committee Chair Mr. Francis. Mr. Francis reported the Rules Committee met on June 3, 2022. Items discussed and recommended by the Rules Committee are included under agenda item #11 for the Board’s consideration.
11. The Board considered Item 11: Discussion and possible action concerning recommendations from the June 3, 2022, Rules Committee meeting, including
 - A. Changes to 22 TAC §801.142 *Supervised Clinical Experience Requirements and Conditions*: to correct typographical errors. Dr. Bartee moved to accept the Rules Committee’s recommendation and to recommend publication of proposed rules to the Council. Mr. Parrish seconded the motion. The motion carried.
 - B. Changes to 22 TAC §801.143 *Supervisor Requirements*: to provide specific details regarding the minimum standards for the 40-hour training required to apply for supervisor status. Rev. Dr. Scoma made the motion to accept the Rules Committee’s recommendation and to recommend publication of proposed rules to the Council. Dr. Bartee seconded the motion. The motion carried.
12. The Board considered Item 12: Discussion and possible action concerning public comment on proposed rules published in April 22, 2022 *Texas Register* regarding 22 TAC:
 - A. §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 exist yet. Mr. Francis moved to recommend adoption as proposed to the Council. Ms. Smith seconded the motion. The motion carried.
 - B. §801.261 *Requirements for Continuing Education*: Recommended by the BHEC Standardization Work Group, this new rule consolidates all the continuing education requirements into one section as well as adding and changing some requirements for each renewal cycle. The Board also considered the Office of the Governor, Regulatory Compliance Division's determination letter of this proposed rule. Ms. Smith moved to recommend adoption with minimal revisions to the Council. The revisions added in subsection (f)

“a graduate-level licensee with supervisor status” and in subsection (h) clarifying language, including description of “self study.” Mr. Francis seconded the motion. The motion carried.

- C. §§801.58, 801.143, 801.263, 801.264, and 801.266 – related to *Technology-Assisted Services, Supervisor Requirements, Requirements for Continuing Education, Types of Acceptable Continuing Education, and Determination of Clock Hour Credits and Credit Hours Granted* – to remove redundant language now found in §801.261 *Requirements for Continuing Education*. Dr. Elder moved to recommend adoption as proposed to the Council. Dr. Barte seconded the motion. The motion carried.

13. The Board considered Item 13: Discussion and possible action regarding jurisprudence exam.

- A. Discussion and possible action concerning the quarterly summary from the MFT Board’s Jurisprudence Exam vendor. Ms. Faszholz provided vendor’s report in the meeting materials. Ms. Faszholz reported that the report includes exams taken from March 1, 2022 to May 31, 2022; and that the vendor reported updates were complete on March 2, 2022. Dr. Elder relayed heavy BHEC content in her own exam experience. The Board directed Ms. Faszholz to make further inquiry into the matter.
- B. Discussion and possible action related to changes in the Board's Jurisprudence Exam. Dr. Merchant thanked the Professional Development Committee for their extensive work to update the exam. No additional changes were discussed.

14. The Board considered Item 14: Report from the Board Chair. Dr. Merchant thanked staff for continued excellent performance, reflected in quick application reviews and reduction in number of complaints. Dr. Merchant noted she presented at TAMFT Conference in June and is to attend AMFTRB Conference in September. Dr. Merchant reported receiving many inquiries regarding telehealth. A number of board members agreed to consider rulemaking to provide some temporary or limited authority for non-Texas licensee to offer continuity of care for client who has recently moved to Texas, is temporarily in Texas, or traveling in Texas. Dr. Merchant asked staff provide insight on statutory authority concerning a possible provision for limited authority license type. Ms. Smith also expressed concern for the profession regarding apparent lack of progress toward interstate compact. Atty Hyde noted he was not aware of discussion of MFT compact in any other states. Director Spinks reported that MFT compact is likely to be discussion at AMFTRB Conference in September; not sure that LPC has secured champion to advocate for LPC compact with Texas Legislature; model draft for SW compact is out for public comment; trouble with MFT might be Department of Defense being unwilling to fund MFT compact (must have thousands of providers, and providers must be distributed more evenly in most states); Council on State Government is definitely interested in MFT compact; and finally setting up compact with national professional association creates a regulatory conflict. Director Spinks opined SW compact is better model than PSYPACT in that there is no distinction between in-person and telehealth services; also, a SW licensee moving from one compact state to another would be more seamless transition. Dr. Merchant asked Rules Committee to consider limited authority for visiting client or visiting therapist.

15. The Board considered Item 15: Report from the Board's Delegates to the Council. Ms. Faszholz provided written summary in meeting materials. Mr. Francis reported that at the time of the Council meeting, the agency was under budget for the year, which reflected favorably on Director Spinks and management team. Some staff vacancies were noted. Dr. Frances opined “solid” performance by BHEC, citing many accomplishments by Director Spinks and staff, great leadership, and things running smoothly. Ms. Smith agreed with Mr. Francis and added that the Council approved Director Spinks compensation package and secured his continued leadership. Ms. Smith commended staff for performing, even with understaffing.

16. The Board considered Item 16: Report from the Board Administrator. Ms. Faszholz gave the report, including overview of process for Associate to change Supervisors ([Supervisory Agreement Form](#) on [Forms and Publications webpage](#)); use upload document feature via the [Email-Us web-form](#) on the [Contact Us webpage](#); reminder to licensees to review [Fingerprint Information webpage](#) to prepare for any upcoming renewal process; and reminder to those who have recently completed renewal process (or think they have) to check the status of their license on the [Online Search/Verify a License webpage](#). Ms. Faszholz reported attending Texas Statewide

Health Coordinating Council's March 3 and June 9 meetings. Ms. Smith asked for the credentials of the SHCC members to determine which or how many are mental health professionals. Ms. Faszholz agreed to research and forward information to board members. Ms. Faszholz noted new [Fee Schedule](#) and [Strategic Plan 2023-2027](#), accessible through the Council's [Forms and Publications webpage](#). Finally, interested persons may subscribe to [Email Updates](#) from the Board or Council.

17. The Board considered Item 17: Discussion and possible action concerning Board response to disaster. Director Spinks provided written report in meeting materials. Rev. Dr. Scoma opined that mental health will be focus during the next legislative session and advised board to be prepared. Chaplain Stoglin asked what resources, what actions, how to help after the cameras leave, what happens after funeral? – that's when loneliness and potential disaster occurs. Dr. Elder thanked Director Spinks for written report and requested that board members be kept informed. Dr. Bartee opined that the BHEC website might be used for community access –list state-wide resources – use BHEC website as central repository for these resources for any type of disaster. Dr. Merchant asked the Outreach Committee to consider this issue.
18. The Board considered Item 18: Discussion and possible action regarding future priorities and activities of the Board. Rev. Dr. Scoma requested report on staffing shortage. Mr. Speer noted that MFT staffing is stable with good productivity and that agency turnover is consistent with a competitive market. Executive agency staff considers staffing and competitive market when crafting legislative appropriations request. MFT staff has increased the number of licenses issued per year – applications received by BHEC are growing rapidly (due to influx of out-of-state applications and changes to education model with more distance learning, such that applicant gains graduate degree while still employed). Ms. Faszholz reported for at least last two months, MFT staff has processed exam scores within 24 hours of receipt.
19. The Board opened Item 19: Public comment:
 - Phillip Crum: Mr. Crum noted that he and his partner, Kathleen Mills, LPC-S, provide continuing education, primarily to LPCs and LMFTs. He remarked that proposed change in 22 TAC §801.143 would mean that LPC-Supervisor could no longer teach LMFT 40-hour training course and noted that requirements for LPCs and LMFTs are the same. Also, Mr. Crum opined the board is missing the practical implication of omitting independent stakeholders on the approved-provider list. It seemed that this topic was dismissed once the state attorney office's ruling about competition was brought up; this ruling does not solve the problem for independent stakeholders and licensees. Mr. Crum invited board members to review related blog posts on [practicementors.us](#). Mr. Crum credited Dr. Elder broaching this problem, but she seemed to have been derailed by other board members claiming no one is excluded. Mr. Crum implored board members to fully understand the negative impact these changes will have before finalizing them. Mr. Crum thanked the board for listening. Mr. Crum offered to send links to Director Spinks and asked that links be forwarded to the board members. Ms. Faszholz explained public comment related to rulemaking, written public comment may be submitted at any time, and general rulemaking processes.
 - Pamela Bermender, LMFT-S: Ms. Bermender appreciated the Board's thoughtful and diligent deliberation and discussion on very difficult and important topics. It will take licensees time to digest continuing education changes and impact on those who provide continuing education courses, those who are supervisors, and those who do telehealth and those who do not. Ms. Bermender thanked the staff for day-to-day, week-to-week, and month-to-month efforts during the move and amidst rule changes.
 - Summer Wright: Ms. Wright thanked the Board for work to clarify rules; expressed being discouraged to hear how MFTs are behind or left out; recognized MFTs are a smaller group in Texas; wondered what can Board or other do to get more people involved and next generation of therapists.
20. The Board considered Item 20: Announcements and comments not requiring Board action.
 - August 23, 2022 BHEC meeting
 - September 13-14, 2022 AMFTRB Conference in Louisville, KY (Dr. Merchant and BHEC staff attending)
 - October 21, 2022 MFT Board meeting

- October 25, 2022 BHEC meeting
- November 9-11, 2022 TCA Conference – Dallas (Dr. Elder and Dr. Bartee presenting)

21. The meeting was adjourned at 12:10 p.m. by Presiding Officer, Dr. Merchant.