

TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS



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MINUTES

Friday, October 21, 2022

The Texas State Board of Examiners of Marriage and Family Therapists met via Zoom video conference with presiding officer in-person on October 21, 2022. The following Board members were in attendance: Lisa V Merchant, PhD, LMFT, Chair; Russell F Bartee, PhD, LPC-S, LMFT-S; Jodie Elder, PhD, LPC-S, LMFT; Mrs. Evelyn Husband-Thompson; Daniel W Parrish; and Jeanene L Smith, MA, LPC-S, LMFT-S. Also, in attendance were Darrel Spinks, BHEC Executive Director; Tim Speer, BHEC Director of Operations; and Patrick Hyde, BHEC General Counsel.

1. The meeting was called to order at 9:06 a.m. by Chair Merchant. Dr. Bartee moved to excuse Anthony Scoma, DMin, Vice Chair; George Francis, IV, MBA; and Richmond Stoglin, MPA, DMin, LMFT; who were not present. Dr. Elder seconded the motion. The motion carried.
2. The Board considered Item 2: approval of July 22, 2022, minutes of the Board meeting by videoconference with presiding officer in-person. Dr. Elder made the motion to approve the minutes. Dr. Bartee 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. Staff provided copy of two orders in meeting materials. Dr. Merchant called for discussion. There were no questions.
7. The Board considered Item 7: Report of cases dismissed by the Council's Executive Director. Staff included report in meeting materials. Dr. Merchant called for discussion. Dr. Elder asked for meaning of "corrective action taken." Atty Hyde explained that, generally, "corrective action taken" means upon notice to respondent, respondent immediately changed conduct or fixed problem – an "innocent mistake." Mr. Speer commented that Ethics Committee conducted its usual review. No further discussion ensued.
8. The Board considered Item 8: Status report of quarterly enforcement case activities. Staff provided report in meeting materials. Dr. Merchant called for discussion. Dr. Elder expressed appreciation of staff resolution of older cases.
9. The Board considered Item 9: Report of compliance with agreed orders. Staff included report in meeting materials. Dr. Merchant called for discussion. No discussion ensued.

10. The Board considered Item 10: Discussion and possible action to re-elect or replace public member delegate to the Texas Behavioral Health Executive Council per Texas Occupations Code §507.051 *Executive Council Membership*, George Francis, IV, MBA, whose term as delegate expires February 1, 2023, per Title 22 of the Texas Administrative Code §881.4, Council Member Terms. Dr. Merchant skipped this agenda item, hoping Mr. Francis would appear. This item will be carried to next agenda.
11. The Board considered Item 11: Report from Committee Chairs per 22 TAC, §801.11(f):
 - A. Report from Ethics Committee Chair Rev. Dr. Scoma. On behalf of Rev. Dr. Scoma, Dr. Merchant reported the Ethics Committee met on October 6, 2022, and reviewed cases. Also, Dr. Merchant commented that the case discussions were very helpful and informative and thanked staff for an amazing job. Dr. Elder appreciated the Ethics Committee's oversight of investigative processes on behalf of the Board.
 - B. Report from Licensing Standards Committee Chair Dr. Merchant. Dr. Merchant reported the Licensing Standards Committee did not meet this quarter.
 - C. Report from Outreach Committee Chair Dr. Merchant. Dr. Merchant reported the Outreach Committee met on September 9, 2022. Staff provided a written report in meeting materials. Dr. Elder asked about the proposed November 4 lunch webinar. Dr. Merchant noted the lunch event was rescheduled to Friday, December 2, 2022, from noon to 1 p.m. Dr. Merchant, Dr. Elder, Dr. Bartee, and Ms. Smith volunteered to present. Dr. Merchant to provide agenda, usually rules update with time for questions from attendees.
 - D. Report from Professional Development Committee Chair Husband-Thompson. Mrs. Husband-Thompson, reported that as Committee Chair, she approved updates to the Jurisprudence Exam. Staff included a written report in meeting materials.
 - E. Report from Rules Committee Chair Mr. Francis. On behalf of Mr. Francis, Dr. Elder reported the Rules Committee met on August 26, 2022. Items discussed and recommended by the Rules Committee are included under agenda items #12 and #13 for the Board's consideration.
12. The Board considered Item 12: Discussion and possible action regarding Rules Committee's request for Board approval to informally gather stakeholder input concerning crisis intervention experience and related continuing education. After discussion, the Board determined to take no action, anticipating the Texas Legislature is likely to consider this matter during the upcoming session.
13. The Board considered Item 13: Discussion and possible action concerning recommendations from the August 26, 2022, Rules Committee meeting, including
 - A. New rule in Title 22 of the Texas Administrative Code (22 TAC), §801.201 *Temporary License*: to create a temporary Texas license for marriage and family therapists who are licensed to practice independently in another jurisdiction. Dr. Bartee moved to recommend the 30-day approach (30 total days over a year's time) with a change from 30 days to 15 days. Dr. Elder seconded the motion. The motion carried. To manage expectations, Director Spinks noted delay in forwarding this recommendation to the Council, due to legislative session and database concerns.
 - B. Changes to 22 TAC §801.202 *LMFT Associate License*: to alter terms of LMFT Associate license, such that license is valid for five years, may not be renewed, and does not require continuing education. Dr. Bartee made the motion 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.
14. The Board considered Item 14: Discussion and possible action regarding staff recommendations for changes to 22 TAC
 - A. §801.142 *Supervised Clinical Experience Requirements and Conditions*: to allow doctoral program students to count supervised experience hours toward licensure requirements when obtained after the conferral of their master's degree that meets licensure requirements. Dr. Bartee moved to recommend proposed changes to Council. Mrs. Husband-Thompson seconded the motion. The motion carried.

- B. §801.261 *Requirements for Continuing Education*: to expand list of providers from which licensees must obtain at least 50% of their continuing education hours to include “a hospital or hospital system, including any clinic, division, or department within a hospital or hospital system” and to add effective date for subsection (f) as January 1, 2024. Dr. Bartee moved to recommend proposed changes to the Council with removal of (a)(2), concerning LMFT Associate’s continuing education requirement for license renewal, due to recommended changes in 801.202 described above. Dr. Elder seconded the motion. The motion carried.
15. The Board considered Item 15: Discussion and possible action concerning public comment on proposed rules published in the August 5, 2022 *Texas Register* regarding 22 TAC:
- A. §801.2 *Definitions*: to add a definition for direct clinical services to couples or families for the purpose of providing greater clarity in the rules. Ms. Smith moved to recommend adoption as proposed to the Council. Dr. Bartee seconded the motion. The motion carried.
- B. §801.43 *Professional Representation*: to clarify how supervisees must represent themselves to clients and the public. Dr. Elder moved to recommend adoption as proposed. Ms. Smith seconded the motion. The motion carried.
- C. §801.302 *Severity Level and Sanction Guide*: to clarify 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 to align with Occupations Code Section 507.352. Dr. Merchant requested consideration of §§801.302 and 801.305 together. Dr. Elder moved to recommend adoption with minimal changes to §801.302 that were suggested by staff to streamline the text. Dr. Bartee seconded the motion. The motion carried.
- D. §801.305 *Schedule of Sanctions*: to replace the current schedule of sanctions and make it easier to use, including a few substantive changes, such that 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, typographical errors are being corrected with this proposed change and 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. Lastly, in the April 22, 2022, edition of the Texas Register, §801.143(h) - (l) were proposed to be amended so corresponding amendments have been made to match those previously proposed changes. Atty Hyde requested clarification if the previous motion included approval of §801.305. The board members affirmed.
16. The Board considered Item 16: Discussion regarding whether an individual who is dually licensed as an LPC Associate and LMFT Associate and under the supervision of an individual dually licensed as an LPC-Supervisor and LMFT-Supervisor, may use the same supervised experience toward the full LPC and LMFT license requirements. Ms. Smith moved to affirm that staff may accept the same supervised experience accrued by an individual who is dually licensed as an LPC Associate and LMFT Associate and under the supervision of a supervisor who is dually licensed as an LPC-Supervisor and LMFT-Supervisor, toward the full LPC and LMFT license requirements. Dr. Bartee seconded the motion. The motion carried.
17. The Board considered Item 17: Discussion and possible action regarding jurisprudence exam.
- A. Discussion and possible action concerning the quarterly summary from the MFT Board’s Jurisprudence Exam vendor. Staff provided vendor’s report in the meeting materials. Dr. Merchant explained that at the July 2022 Board meeting, Dr. Elder remarked that her exam appeared to still have too many BHEC-related questions. In August, staff requested copy of exam from vendor and compared Dr. Elder’s exam to updates reported by vendor to have been completed March 2, 2022. All questions in Dr. Elder’s exam appeared in the exact order of March updates. On September 6, 2022, vendor reported that “randomization” had been turned off since March 2, 2022, but is now “on” / fixed. Dr. Merchant called for discussion. No discussion ensued.

- B. Discussion and possible action related to changes in the Board's Jurisprudence Exam. No additional changes were discussed.
18. The Board considered Item 18: Report from the Board Chair. Dr. Merchant reported she and Director Spinks attended the AMFTRB Conference in September. At the AMFTRB Conference, attendees discussed four pathways to portability: 1. Interstate compact, requiring multi-state legislative actions and run by a third party; 2. Reciprocity, requiring bilateral state legislative action and is usually deployed across a region; 3. Endorsement, a one-way street for non-Texas licensees to gain Texas licensure; 4. Universal licensure, a federal license process similar to pilots, commercial driver's licenses. One barrier to MFT compact (pathway 1) is no third party is willing to accept this task. Dr. Merchant attended AAMFT business meeting a couple of weeks ago; they are unwilling due to the expense. Director Spinks noted that AMFTRB is not interested and potential conflict when a professional association runs a regulatory entity. Also, for compact to work, states with high numbers of licensees – like California, New York, and Florida – would need to participate. Concerning pathway 2, Ms. Smith noted Texas state association may lobby Texas Legislature for changes in statute to authorize board to enter in reciprocity agreement. Regarding pathway 3, Dr. Merchant explained Texas currently offers a streamlined licensing process for non-Texas licensee who has held license for at least two years. Ms. Smith agreed: endorsement does not help Texas practitioners moving or wanting to practice outside Texas. Dr. Merchant noted there was little interest in pathway 4. Director Spinks noted another option like Arizona or Florida – once a state recognizes licensee, Florida will recognize the out-of-state license; this is another one-way street. Dr. Merchant reported AMFTRB Conference presented overview of AAMFT workforce survey: licensees want greater portability, especially in bordering states. Those who desired greater portability reported need to increase continuity of care versus desire to grow their practice; many reported full case load. Also, survey respondents expressed frustration at inability to bill insurance if client was located outside therapist's state. AAMFT is expected to release new or updated ethics code in 2023. Other states reported concern that to avoid another state's licensing laws, licensees will provide "life coaching" when client moves out-of-state. Mrs. Husband-Thompson requested clarification concerning life coaching. Ms. Smith explained some differences between licensed therapy and life coaching and the Board's plans to post written guideline on agency's website and possibly include as lunch event topic. AMFTRB attendees also discussed alternatives to licensure exam, due to claim of bias and claim that exam does not mimic real life. Alternatives included 1. Require only degree and post-degree supervised experience; 2. Portfolio accrued/developed during master's program; 3. Portfolio accrued/developed during supervised experience with board-trained supervisor; 4. Performance/task assessment with scenario, written and exam component.
19. The Board considered Item 19: Report from the Board's Delegates to the Council. Staff provided written summary in meeting materials. Ms. Smith reported the next Council meeting is Tuesday, October 25, 2022, and the next Standardization Work Group meeting is in December. The Standardization Work Group will continue to discuss supervision. Ms. Smith relayed need for clarification concerning statutory requirements that LMFT Associate practice only while "under the supervision of a supervisor"; and to gain LMFT license, the Associate must complete "at least 200 hours of supervised provision of direct clinical services ..., 100 hours of which must be supervised on an individual basis [[3 TOC Chapter 502](#)]." Ms. Smith reiterated the Board's rule that "An LMFT Associate, when providing services, must receive a minimum of one hour of supervision every week, except for good cause shown" [[22 TAC 801.142\(3\)](#)]. Dr. Elder noted two years of experience (assuming 52 weeks per year and one hour of supervision per week) results in 104 hours of supervision. Dr. Merchant noted that most Associates may receive credit for up to 100 hours of pre-graduate practicum or internship supervision [[22 TAC 801.142\(4\)](#)]. Dr. Merchant asked if the 200-hour requirement in statute were removed by the Texas Legislature, what would the LMFT Supervisor submit for the verification of an Associate's supervised experience. Ms. Smith and Dr. Bartee opined the Supervisor would still submit the total number of supervision hours completed by the Associate. Director Spinks noted the Council has conducted a lot of rulemaking and discussion on continuing education rules; and he referred to staff's written report in the meeting materials. Everything has been running smoothly. The agency has submitted its Legislative Appropriations Request (LAR). Director Spinks attended first round of hearings. There has been some discussion with the Legislative Budget Board concerning the agency's LAR, but Director Spinks remarked that is typical. The

biggest thing for licensees is the Council's adoption of changes to 22 TAC §885.1 *Executive Council Fees*. Dr. Elder asked about the upgrading and redesigning of the agency's website. Director Spinks explained the customer service survey included a number of comments concerning the website. Director Spinks opined many of the comments may stem from the fact that the website is new. When Director Spinks sought quotes or estimates on redesign, many replied that perhaps some color change and a few tweaks were appropriate, but the structure and organization were good. The quotes received ranged from \$60,000 to \$1.5 million. Dr. Bartee suggested no change to color scheme, but did request removal of instances of "LMFT A." Ms. Smith noted review of the website was driven by a few voices, not by the Council.

20. The Board considered Item 20: Report from the Board Administrator. Mr. Speer gave the report, noting the licensing database is currently offline for enhancements. The database is scheduled to be online again on Monday, October 24. The jurisprudence exams and website pages are available during this time. Things are going well: only about five older complaint cases remain, licenses are being issued timely. Over this past year, staff issued almost 4,000 licenses, which is close to a 5% growth rate.
21. The Board considered Item 21: Discussion and possible action regarding future priorities and activities of the Board. Dr. Merchant called for suggestions. None were offered.
22. The Board opened Item 22: Public comment:
 - Sandra Martin, LPC, Governmental Liaison for Christian Counselors of Texas (CCT), expressed gratitude for the board members' service and hard work, noting hours and hours spent reviewing documents.
23. The Board considered Item 20: Announcements and comments not requiring Board action.
 - Next week AAMFT overview of workforce survey (Dr. Merchant attending)
 - October 25, 2022 BHEC meeting
 - November 9-11, 2022 TCA Conference – Dallas (Dr. Elder and Dr. Bartee presenting)
 - December 2, 2023 MFT Board's lunch webinar
 - December 8, 2022 Texas Tribune's preview of the 88th Texas Legislative Session
 - January 27, 2023 MFT Board meeting
 - January 31, 2023 BHEC meeting
 - March 2023, TAMFT Conference
 - Mr. Francis's and Chaplain Stoglin's terms as board members expire February 1, 2023. Chaplain Stoglin has indicated he has not sought re-appointment. The Board wished him well in his call to re-focus on his ministry. Although a board member's term expires, the member is asked to continue to serve until the Governor appoints a replacing board member.
24. The meeting was adjourned at 11:41 a.m. by Presiding Officer, Dr. Merchant.