

# TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS



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Sarah Faszholz, MBA  
Board Administrator, TSBEMFT

## MINUTES

**Friday, July 21, 2023**

The Texas State Board of Examiners of Marriage and Family Therapists met via Zoom video conference and in-person on July 21, 2023. 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; George Francis, IV, MBA; Evelyn Husband-Thompson; 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; Brian Clark, TSBEMFT Attorney; and Sarah Faszholz, Board Administrator. [From Sicily, Anthony Scoma, DMin, Vice Chair, appeared near the end of the meeting to greet his fellow board members.]

1. The meeting was called to order at 1:07 p.m. by Chair Merchant.
2. The Board considered Item 2: approval of April 14, 2023, minutes of the Board meeting by videoconference with presiding officer in-person. Dr. Elder made the motion to approve the minutes. Chaplain Stoglin 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 one order in meeting materials. Dr. Merchant called for discussion. There was none.
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. There was none.
8. The Board considered Item 8: Status report of quarterly enforcement case activities. Staff provided combined report in meeting materials for agenda items 8 and 9. Dr. Merchant called for discussion. There was none.
9. The Board considered Item 9: Report of compliance with agreed orders. Staff included combined report in meeting materials for agenda items 8 and 9. Dr. Merchant called for discussion. Dr. Elder noted the combination of what previously was two reports and asked about the change and reduction in data provided concerning compliance with agreed orders. Ms. Faszholz and Atty Hyde explained that if staff believe a respondent has failed to comply with an order, the allegation generates a new complaint. To assure that all

board members are eligible to review the new complaint, staff felt it best to provide only the number of orders being tracking and the number of noncompliant respondents.

10. The Board considered Item 10: Report from Committee Chairs per 22 TAC, §801.11(f):
  - A. Report from Ethics Committee Chair. Dr. Elder reported two Ethics Committee meetings. On May 18, one or more of the Ethics Committee members paneled informal settlement conferences for four cases. For two of the cases the panel proposed to resolve by agreed order; the remaining two cases were returned to the investigator for more information. On June 16, the Ethics Committee conducted case audit: eight cases from the second quarter and four cases from the third quarter – finding all were appropriately processed. Dr. Elder cautioned practitioners who use automated reply email messages, that the message include some statement indicating not to reply to that message or notice that the practitioner will not receive a reply to that automated account – to avoid misunderstandings or missed communications with clients.
  - B. Report from Licensing Standards Committee Chair. Dr. Merchant reported the Licensing Standards Committee did not meet.
  - C. Report from Outreach Committee Chair. Dr. Merchant reported the Outreach Committee met on May 31 and called for another meeting, which was set for August 24 and is intended to discuss materials provided by Ms. Smith differentiating licensed therapist from life coach and to plan agenda for September 22 lunch-time webinar. Two proposals for the lunch event were 1) overview of 88<sup>th</sup> Legislative Session and news laws and rules; and 2) solicitation of comments from stakeholders concerning the December 2022 Report from Senate Special Committee to Protect all Texans' (Uvalde Report's) call to reduce barriers to licensure. Chaplain Stoglin reported that he attended the July 19 BHEC lunch event and commended Director Spinks for his overview of bills that passed and bills that failed in the 88<sup>th</sup> Legislature. He remarked that board administrators provided overview of recently adopted rules for each member board. And he thanked staff for their efforts and time to prepare and present for the event and to allow for attendee questions and comments during the event. Dr. Elder echoed Chaplain Stoglin's comments and compliments about the July 19 event. She suggested for MFT lunch event, to provide brief overview and reserve second half for stakeholder comments; thereby meeting both objectives. Dr. Merchant reported AMFTRB is scheduling a focus group and, perhaps, MFT Outreach Committee could convene focus group concerning the Uvalde Report. Dr. Elder agreed a focus group would 1) demonstrate to Legislature that the Board has acted with due diligence; and 2) help the Board to efficiently and effectively hone its efforts. Chaplain Stoglin asked about required continuing education for crisis intervention. Dr. Merchant and Director Spinks clarified that the bill proposing crisis intervention continuing education requirement did not pass and a rule change was discussed but not recommended. Dr. Merchant referred further discussion to the Outreach Committee. Ms. Smith noted she had questions for Atty Hyde regarding the proposed Guide to Consumers (differentiating licensed therapist from life coach) and she would share those when the Outreach Committee meets on August 24.
  - D. Report from Professional Development Committee Chair. Mrs. Husband-Thompson reported the Professional Development Committee did not meet this quarter; however, on June 1, Mrs. Husband-Thompson approved updates to the Jurisprudence Exam for rules that became effective June 15. The vendor reported updates were completed on June 20.
  - E. Report from Rules Committee Chair. Dr. Bartee provided written report on the June 16 meeting of the Rules Committee and commented on the Committee's discussion of changes, some of which stem from the Uvalde Report, designed to reduce barriers to licensure without reducing effectiveness of training and public protection. After discussion regarding statutory authority to reduce two-year requirement §801.142(9)(B), Dr. Merchant directed the Rules Committee to reconsider possible rule changes to this provision. The Rules Committee's recommendations are detailed in agenda item 11.
11. The Board considered Item 11: Discussion and possible action regarding recommendations from the June 16, 2023 Rules Committee meeting, affecting Title 22 of the Texas Administrative Code and including the following.

- A. §801.2 *Definitions*, adding definition for “independent practice.” Dr. Merchant questioned the origin of this rule change and opined it was unnecessary. Ms. Smith remarked that the addition did not provide the clarity desired. Chaplain Stoglin moved to table the discussion of this rule change and refer it back to the Rules Committee. Dr. Elder asked about the process of tabling the change. Dr. Bartee opined that if it was sent back to the Rules Committee, it is likely the Rules Committee would return it to the Board unchanged, because the Rules Committee has already recommended it. Mr. Francis moved to recommend to the Council publication of this proposed rule change. Dr. Bartee seconded the motion. The motion carried with two members abstaining.
  - B. §801.48(h) *Record Keeping, Confidentiality, Release of Records, and Required Reporting*, changing “independent” to “private” practice as to when the licensee must establish a plan for the custody and control of the licensee’s client mental health records. Staff requested differentiation between “independent” and “private” practice. Dr. Bartee moved to recommend to the Council to publish the proposed rule change. Dr. Elder seconded the motion. The motion carried with one member abstaining.
  - C. §801.142(1)(A)(i) *Supervised Clinical Experience Requirements and Conditions*, regarding the increase from 500 to 750 hours the maximum number of direct hours provided via technology-assisted services to count toward the 1500 requirement for direct hours. Mr. Francis moved to recommend to the Council publication of this proposed provision. Chaplain Stoglin seconded the motion. The motion carried.
  - D. §801.143(d) and (f)(3) *Supervisor Requirements*, concerning
    - i. A supervisor must maintain a complete supervision file on the LMFT Associate including the established plan for the custody and control of the supervisee's records in the event of the supervisor's death or incapacity, or the termination of the supervisor's practice. Mr. Francis moved to recommend to the Council publication of this proposed provision. Chaplain Stoglin seconded the motion. The motion carried.
    - ii. Supervisors may only supervise the number of individuals for which they can provide adequate supervision. After brief comparison to similar rules promulgated by other member boards, Chaplain Stoglin moved to recommend to the Council publication of this proposed provision. The motion was seconded. The motion carried.
12. The Board considered Item 12: 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 called for discussion. Dr. Elder thanked staff for the report and detailed responses to examinees’ comments.
  - B. Discussion and possible action related to changes in the Board's Jurisprudence Exam. No additional changes were discussed. Dr. Merchant suggested removing the two questions recently updated due to changes in rules effective June 15, concerning prioritization of complaints and applications held in abeyance when a complaint is pending. The Board agreed. Dr. Merchant also requested that the next review by the Professional Development Committee consider re-phrasing any instances of double negatives.
13. The Board considered Item 13: Report from the Board Chair. Dr. Merchant reported that the AMFTRB virtual focus group on the post-graduation supervised experience requirement for licensure is moving forward. At April meeting, Dr. Elder and Dr. Bartee expressed interest in serving on the focus group. Dr. Merchant received permission for both to serve. AMFTRB will hold three virtual sessions. The first focus group will be for supervisors, the second for regulators, and the third for associates. Dr. Elder expressed interest in the regulator group; Dr. Bartee stated he would like to join the supervisor group. Dr. Merchant reported that many of the bills tracked during the regular Legislative Session failed. One of the failed bills, regarding requirement for suicide prevention course as part of continuing education for renewal. Dr. Merchant suggested the addition of one hour of continuing education in crisis management to include recognizing client deterioration, safe plan, suicide prevention. Dr. Elder recalled work of the Council’s Standardization Work Group on the continuing education requirements. Ms. Smith reported the Standardization Work Group had been waiting for the closure of the Legislative Session, but an hour of crisis management is being considered. She expressed concern that

eventually all of the licensee's continuing education topics will be dictated by one law or rule or another. Ms. Smith volunteered to bring it up at the August 15 Council meeting. Dr. Elder suggested the matter be referred to the Professional Development Committee after the August 15 Council meeting. Dr. Merchant reported no new information to share regarding Governor appointments to the board – although a new appointments manager has introduced himself to Dr. Merchant and promised to contact again soon. The Texas Counseling Association's (TCA's) annual meeting is November 1-3 in Houston. Dr. Elder agreed to attend and present at the TCA meeting on behalf of the MFT Board. The presentation would be on November 3. Dr. Merchant plans to attend the Texas Association for Marriage and Family Therapy (TAMFT) conference in April 2024 in San Antonio. Dr. Merchant and Director Spinks will be attending Association of Marital and Family Therapy Regulatory Boards (AMFTRB) meeting September 26–27 in Salt Lake City. Dr. Elder was on the ballot for AMFTRB Board Officer – Secretary; results not yet calculated. For the September MFT Board meeting, Dr. Elder inquired with Southern Methodist University (SMU) but no reply yet. Dr. Merchant noted that Abilene Christian University (ACU) is willing to host, as needed. Director Spinks reported that the larger meeting rooms in the George H. W. Bush building in Austin is not operational and staff travel was not in the budget. Using Texas Department of Licensing and Regulation's (TDLR's) meeting room might be an option for future Board meeting in Austin. Ms. Smith noted Texas Tech has a beautiful facility and their MFT program is stellar. Dr. Merchant explained that 22 TAC §142(4) – regarding excess practicum awards – are inconsistent with 3 TOC §502.252(c) and that the upcoming four-year rule review requires Director Spinks and Atty Hyde to certify the Board's statutory authority to promulgate the rule. A Legislative solution was proposed but did not pass during the 88<sup>th</sup> Legislative Session. Without a Legislative fix, these provisions may be repealed at the next four-year rule review. These provisions are complicated for staff to calculate; however, they are beneficial to associates. Dr. Merchant seeks a way to retain these provisions and lessen burden on staff. Director Spinks sought an Attorney General opinion on the rulemaking process; the AG response was not helpful. Dr. Merchant stated three options: 1) petition the AG's office again, asking specifically about these rules; 2) keep the provisions and include in the preamble an explanation of the benefit and hope the Governor's office offers some intervention or exemption; 3) repeal the provisions with an extended trigger (hoping that Legislative fix may be realized before trigger sets in). Dr. Elder asked if Board was limited to one option; Dr. Merchant replied no more than one option may be employed. Mr. Francis asked how long the AG's office would take. Atty Hyde and Director Spinks explained the AG's office has 180 days to respond, but it may be longer than that. Mr. Francis asked at what level of detail does the Governor's office review. Atty Hyde noted the Governor's office looks at every rule. Ms. Smith asked if we are currently crediting applicant's with excess practicum. Director Spinks replied that we are. Ms. Smith asked if after we send for AG's opinion, can we continue to count the hours. Director Spinks replied yes. Ms. Smith asked for a time frame under which decision has to be made – or can we just continue to count them. Director Spinks opined "the weeds" of this discussion is better served at the committee level. There are pros and cons of asking for an AG's opinion. Director Spinks was uncertain that all three options could be pursued. Ms. Faszholz noted Texas Government Code requires the four-year rule review and that has set the clock on this matter. Atty Hyde explained the four-year rule review would be done in 2024 – the member boards' reviews would be staggered over a number of months. Dr. Merchant referred this matter to the Rules Committee to assess options. Rules Committee meeting was set for July 24 with Mr. Francis, Dr. Merchant, Ms. Smith, and Mrs. Husband-Thompson.

14. The Board considered Item 14: Report from the Board's Delegates to the Council. Staff provided written summary in meeting materials. Ms. Smith reported the Council met on May 23 – waiting for bills that made it through the House, but later died in the Senate. Next Council meeting scheduled for Aug 15. Dr. Elder noted the change in 22 TAC §884.10 to two levels of priority for complaints and the impact of that change. Director Spinks explained the change is designed to subject fewer applicants to a hold on their application due to a pending complaint.
15. The Board consider Item 15: Report from the Board Administrator. Ms. Faszholz reported on the July 19 BHEC *Insights Over the Lunch Hour*, which provided update on regulatory and legislative actions, licensure compacts, current debates regarding national exams, the workforce survey, as well as other issues and concerns under consideration by the Council and its member boards. A recording of the event is available through a link at the

bottom of the Council's [Meeting Dates, Agendas, and Minutes webpage](#). Ms. Faszholz displayed the Council's [Proposed Rule Changes and the Rulemaking Process webpage](#) and provided an update to the meeting materials, explaining that public comment on proposed 22 TAC §882.61 may be accepted to 5 p.m. on August 13. Also, all licensees are asked to check the status of their license via the Council's [Online Search/Verify a License webpage](#). And when expecting reply from BHEC staff, please check spam and junk folders. Thanks to staff for posting updated *Consolidated Rulebooks* on the [Statutes and Rules webpage](#). Reminder to complete the workforce survey; link to the survey and links to live data feeds are on the Council's [Workforce Survey and Data webpage](#). The Council's [How To User Guide webpage](#) includes many helpful step-by-step instruction sets – the most recent addition is [How To Look Up Past Rules](#). Finally, the MFT Board's [FAQs webpage](#) provides very useful information.

16. The Board considered Item 16: Discussion and possible action regarding future priorities and activities of the Board. Dr. Merchant called for suggestions. Dr. Elder asked for status of HB5149, relating to non-compete agreements for certain psychology or counseling professions. Dr. Merchant reported the bill did not pass. Dr. Elder asked about status of the automated continuing education system. Director Spinks reported the Council has instructed him to construct a Request for Proposal (RFP) or solicitation for bid. After Director Spinks completes implementation of laws that were enacted by the 88<sup>th</sup> Legislature, he will begin work on the RFP. Dr. Elder asked about the status of the State Auditor's Office report to be released in August. Director Spinks reported the auditors are still on site. Dr. Elder commended staff on the Council's new [Proposed Rule Changes and the Rulemaking Process webpage](#) and the ease of the online public comment form. She asked about adding a field to prompt the commenter to include "how the wording of the rule should be." Director Spinks explained the form was designed to accommodate an alternate suggestion of the rule wording within the comment itself. Ms. Smith thanked staff for a well-designed, streamlined website and the available resources. Mr. Francis asked what barriers exist that slow or prevent people from coming into the profession and what can the Board do about them; what can the Board proactively do to increase access to mental health care? Chaplain Stoglin noted challenges in achieving the academic requirements (six years of education) plus years of post-degree supervised experience – broader than marriage and family therapy – these struggles impact clergy, military, healthcare professionals, many sectors of society. The focus groups that Dr. Merchant mentioned earlier may help identify some of these obstacles. Dr. Bartee remarked Texas is not maintaining the ratio of providers to population, due to the increase of people moving to Texas. Uncertain if the matter is board-driven or association-driven. Mr. Francis opined that it is board-driven, the Board is not removing barriers and obstacles; then, the Board is not protecting the people of the Great State of Texas. Chaplain Stoglin added Tarrant County is receiving an additional 5,000 people per month. Dr. Bartee suggested these could be conversations with undergraduate and graduate school programs. Dr. Merchant remarked that enrollment was done across the university because of lower numbers in the population of that specific age-range. Part of it is awareness in high school – I want to help people, I'll go into psychology or social work. Some things are within the Board's control and some things are beyond the Board's authority. The Board has done some work on this – to reduce barriers. Increasing the number of supervisors might be one proactive thing the Board can do. The AMFTRB focus groups might be a place to begin – talking to universities, licensees, supervisors, associates – and finding out what the barriers are. It might be a function of the Outreach Committee or TAMFT. For the longest time, marriage and family therapy did not have its own undergraduate program; in the last 10 or 15 years, human development, family studies, child and family services, and the like, act as feeder programs.
17. The Board opened Item 17: Public comment:
  - Alex Warden: I am a recent graduate of the Texas Wesleyan program. At least four in my cohort dropped out for financial reasons. There have been shake-ups in the GI bill that impacted some students. You may want to do focus groups with students. I was in the professional counseling track. If I failed the NCE, I could re-take in four weeks. For the MFT national exam, there is a quarterly cycle. And I could take the NCE online. My MFT colleagues reported 9-month to 1-year gap from graduation to licensure, due to exam and fingerprinting processes.

- Violeta Kadieva: I am a Texas Wesleyan faculty member. In regard to licensure when moving from another state – some states require holding license for five years, some two years, some one year. I appreciate you looking into those barriers.
18. The Board considered Item 18: Announcements and comments not requiring Board action. Chaplain Stoglin noted that with the GI Bill if you go to any state university or college, tuition, housing, books, parking is covered; attending a private school, the benefit is pro-rated based on a state tuition. The benefit may be passed to spouse, child, and in certain cases a grand child.
19. The meeting was adjourned at 3:32 p.m. by Presiding Officer, Dr. Merchant.