

Texas State Board of Examiners of Psychologists

November 2019 Newsletter

Mandatory Human Trafficking Prevention Training Coming Soon

H.B. 2059 was adopted by the legislature and signed into law by Governor Abbott following the 86th Legislature. This bill, which added Chapter 116 to the Occupations Code, contains a provision that will directly impact licensees. Pursuant to Section 5 of the bill, the Board is required to notify its licensees of the mandatory training that each licensee must undergo in human trafficking prevention as a condition of license renewal. The requirement for this training will begin on or after September 1, 2020. The training has not yet been developed, but the Texas Health and Human Services Commission has been tasked with developing the training and the Board's Executive Director is assisting with the development of this training. The Board will notify its licensees once this training becomes available.

Update on the Texas Behavioral Health Executive Council

The Council consists of the following members:

Gloria Canseco, Chair, Public Member

TSBEP members:

Susan Fletcher, Ph.D., Psychologist Board Member

John K. Bielamowicz, Public Member

TSBEPC members:

Steve Christopherson, LPC, Chair

Sarah Abraham, Public Member

TSBEMFT members:

Jennifer Smothermon, M.A., LMFT, Chair

George Francis, IV, Public Member

TSBSWE members:

Timothy M. Brown, LCSW, Chair

Megan K. Graham, Public Member

The Texas Behavioral Health Incubation Taskforce is charged with assisting with the establishment and transfer of regulatory programs to the Council and is made up of the following members:

Timothy M. Brown, Chair, TSBSWE

Jennifer Smothermon, Chair, TSBEMFT

Steve Christopherson, Chair, TSBEPC

Tim Speer, PLCU Manager for HHSC
Christina Kaiser, Enforcement Manager for TDLR
Darrel D. Spinks, Executive Director for TSBEP

The Council took several important actions at its October 15, 2019 meeting, including adopting three future meeting dates. Those dates are set out below and have been listed on the Board's [Important Dates](#) webpage:

- January 14, 2020 @9am
- March 2, 2020 @9am
- June 16, 2020 @9am

Second, the Council created a hiring committee to develop the job description, point key system, and interview questions, as well as to interview candidates for the Executive Director position and make recommendations to the full Council. The hiring committee consists of John K. Bielamowicz, Steve Christopherson, Jennifer Smothermon, and Timothy Brown.

Third, the Council approved and authorized an interagency agreement with TSBEP for Mr. Spinks to serve as the Interim Director for BHEC until the Executive Director can be hired.

Fourth, the Council approved and authorized memorandums of understanding with:

- TSBEP for accounting and purchasing services, general counsel services, and board/council member training.
- the Health Professions Council (HPC) for all HPC related matters, e.g. database transfer and management.
- TDLR for joint-rulemaking, human resources, and meeting administration services.

Finally, the Council requested that a representative from HPC be invited to its next meeting and that the following topics be placed on the agenda for the January 14th meeting.

- a discussion about outcome measures;
- an update on the search for an Executive Director;
- an update on services delivered through interagency agreements;
- an update from the member boards;
- an update from HHSC on compliance with Sunset management actions; and
- a discussion about the anticipated rulemaking process under Chapter 507 of the Occupations Code and continuing rule development authority by member boards.

Comparison of Executive Council, Professional Board, and Staff Duties

While some variation may ultimately result following adoption of rules, policies, and procedures by the Executive Council, the following is generally believed to accurately reflect the division of responsibility between the Executive Council, the professional boards (e.g., TSBEP), and the agency staff.

<i>Administration</i>
Executive Council duties
<ul style="list-style-type: none"> • Adopts rules and policies to standardize agency administrative functions, customer service, and human resources • Hires and annually reviews an executive director that directs staff and implements Council policies and procedures • Sets fees to cover costs of performing services by the agency
Staff duties
<ul style="list-style-type: none"> • Manages and performs the day-to-day operations of the agency, including conducting administrative and customer service activities to implement Council policies and procedures • Performs accounting services and manages the agency's finances • Provides training for Council and board members and staff • Ensures compliance with open meetings, public information, and retention requirements • Determines and reports on agency information technology needs and capabilities • Advises the Council and boards on rulemaking, duties, and legal obligations as necessary

<i>Licensing</i>
Executive Council duties
<ul style="list-style-type: none"> • Sets appropriate fees for licensing and renewal • Adopts rules and policies for licensing procedures • Reviews and adopts proposed rules related to license qualifications and practice standards proposed by the boards • Determines consistent standards for auditing continuing education • Conducts fingerprint background checks of applicants for initial license or renewal • Administers the jurisprudence exams for each profession
Professional Boards duties
<ul style="list-style-type: none"> • Proposes all rules related to license qualifications, examinations, criminal convictions, continuing education, and a schedule of complaint sanctions • Proposes all rules related to the scope of practice for each profession regulated by each board • Provides expertise on case-by-case exceptions to licensing requirements • Proposes requirements for continuing education providers
Staff duties

- Implements policies and procedures adopted by the Council to conduct licensing functions
- Reviews and approves license and renewal applications
- Consults boards or contracted experts for practice-related licensing matters
- Approves continuing education providers that meet criteria
- Performs audits of licensees' compliance with continuing education requirements
- Monitors temporary, provisional, trainee, and intern licensees for compliance with rules

Enforcement

Executive Council duties

- Adopts rules and policies related to enforcement of non-professional standards, such as administrative duties, reporting requirements, and unlicensed practice violations
- Reviews and adopts rules related to standards of care and ethics proposed by boards
- Exercises sanction and administrative penalty authority using the schedule of sanctions
- Adopts rules and policies for standardized complaint intake, investigation, and resolution procedures
- Determines appropriate cases to pursue through formal case resolution at SOAH or district court
- Adopts final judgment in SOAH and district court cases
- Approves dismissals and negotiated settlement orders

Professional Boards duties

- Proposes all rules related to standards of care and ethics
- Proposes a schedule of sanctions and complaint prioritization policies to the Executive Council
- Provides expertise to staff on standard-of-care complaint cases

Staff duties

- Conducts investigations and enforcement activities as directed by priorities and policies adopted by the Council
- Dismisses cases that are non-jurisdictional, do not allege a violation, or lack evidence to prove a violation
- Consults boards or contract experts for practice-related questions
- Negotiates agreed settlement orders for cases
- Monitors licensees for compliance with board orders
- Reports to and monitors disciplinary actions through national databanks

Congratulations to TSBEP's Executive Director



Mr. Darrel Spinks, TSBEP's Executive Director was awarded the 2019 "Ming Fisher Award." This award was presented to Mr. Spinks by the Association of State and Provincial Psychology Boards (ASPPB) at their Annual Meeting in Minneapolis, MN this past October. The Ming Fisher Award is a highly prestigious award, not given every year and awarded "to a state or provincial psychology board administrator or staff person who has contributed to psychologists and psychology by their dedication to licensing and regulations, and an administrative approach that has been consistently fair, respectful, and just." The Texas State Board of Examiners of Psychologists is proud to have their Executive Director recognized with such a high honor.

**TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS DISCIPLINARY SANCTIONS RATIFIED AT THE
MAY 16, 2019 BOARD MEETING**

NAME	CITY	NATURE/INFRACTION	DISCIPLINARY ACTION
Steven Garland Gray, Ph.D.	Colorado Springs, CO	The licensee was previously sanctioned by the Colorado Psychology Board for sexual harassment of an intern and again for inadequate supervision of an intern. The licensee also failed to timely notify the Texas Psychology Board of a Colorado disciplinary action.	Resigned in lieu of further adjudication.
Charles Gutierrez, Ph.D.	San Antonio	The licensee failed to adequately describe in his informed consent which psychological services were to be provided to patients and the licensee failed to include any limitations to the certainty with which diagnoses, judgments, or predictions could be made when utilizing testing materials that were not the most current versions for assessments or reports.	Administrative penalty and professional development.
Joseph Mosher, Ph.D.	Carrollton	The licensee was arrested for felony offenses: possession of child pornography and sexual performance by a child.	Resigned in lieu of further adjudication.
Nancy A. Nichols, M.A.	Tyler	The licensee failed to obtain written informed consent from parents or legal guardians prior to providing psychological services at a public school.	Reprimand and administrative penalty.
Rafael F. Otero, Ph.D.	Texarkana	The licensee failed to report child abuse within 48 hours as required by law and the licensee failed to conduct a child custody evaluation in accordance with all Board rule requirements.	Probated suspension, practice monitoring, practice limitation, administrative penalty, client refund, and required passage of the jurisprudence examination.

**TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS DISCIPLINARY SANCTIONS RATIFIED AT THE
AUGUST 15, 2019 BOARD MEETING**

NAME	CITY	NATURE/INFRACTION	DISCIPLINARY ACTION
Barbara Suzanne Peavey, Ph.D.	Grapevine	The licensee supervised an unlicensed person who conducted psychological services and the licensee signed an application document for the individual, as a supervisor, that contained inaccurate and false information.	Reprimand and restricted from providing future supervision.
Carlos A. Smith, Psy.D.	Missouri City	The licensee was convicted of Medicare fraud.	Resigned in lieu of further adjudication.
Brett Valette, Ph.D.	Superior, CO	The licensee was previously sanctioned by the Colorado Psychology Board and failed to timely report the resolution of his Colorado complaint to the Texas Board.	Administrative penalty.

**TEXAS STATE BOARD OF EXAMINERS OF PSYCHOLOGISTS DISCIPLINARY SANCTIONS RATIFIED AT THE
NOVEMBER 14, 2019 BOARD MEETING**

NAME	CITY	NATURE/INFRACTION	DISCIPLINARY ACTION
Monte C. Miller, Psy.D.	San Antonio	The licensee received deferred adjudication for Medicaid fraud.	Probated suspension.
David F. Dubin, Ph.D.	Austin	The licensee was convicted of Medicaid fraud related to a single Medicaid payment in the amount of \$338.10.	Resigned in lieu of further adjudication.