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Texas State Board of Examiners



The Communicator

of Marriage & Family Therapists

Vol. 3 No. 3
Publication #73-10823
August 2000

Government Publications
Texas State Documents

NOV 13 2000

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Meet Our New Board Members!

Governor George W. Bush has appointed new members to the Texas State Board of Examiners of Marriage and Family Therapists. Our new members are: Brenda VanAmburgh of Fort Worth, Joe Ann Clack of Missouri City, Bishop William H. Watson of Lubbock and Jackie M. Weimer of Plano.

Dr. VanAmburgh will be serving the board as a professional member. She is replacing Maria T. Flores of San Antonio whose term expired. Dr. VanAmburgh is a Licensed Marriage and Family Therapist and a Licensed Professional Counselor.

Ms. Clack will be serving the board as a public member. She is filling the unexpired term of Gail Griffin Thomason of Harlingen, who resigned. Ms. Clack is a Business Education Instructor with the Fort Bend Independent School District.

Bishop Watson will be serving the board as a public member and is replacing Noe Cavazos of Edcouch, whose term expired. Bishop Watson serves at the Texas Northwest Church of God in Christ in Lubbock.

Ms. Weimer will be serving the board as a professional member and is replacing Harriet Roberts of Houston, whose term expired. Ms. Weimer is a Licensed Marriage and Family Therapist in private practice.

We welcome the new members and look forward to working with them in the future. Each member brings a wealth of experience and expertise that will benefit all of Texas.

Comments from the Chair:

George Pulliam, M.S.S.W., LMFT

Lots of changes have taken place since my last remarks for this newsletter. First of all this the first newsletter in over a year because our office has been short staffed and with turnover of personnel, we have not been able to do some things we wanted to do. Hopefully that problem is resolved.

During the past year, we have had several changes on our board. As a matter of fact, only Ellen Harrison and I remain from the board we joined five years ago. I believe you will have information on the new members in this newsletter. Nevertheless, your board continues to function efficiently and is taking care of business. And business we have. We had new statutes passed by the last legislative session which primarily effect new graduates applying to become Licensed Marriage and Family Therapist Associates. We have also been in the process of reviewing all of the Board rules as mandated by the State Legislature. New rules have been written and others rewritten. You may review these when they are posted as proposed rules in the Texas Register and make comments before they come up for final adoption by the LMFT Board.

Speaking of rules, I remind you that you may submit a rule or a rule change to the Board for consideration. Simply send it to the Executive Director and it will be put on the agenda of the Rules Committee for review and

recommendation to the Board. See Section §801.12 for procedures.

And last and most important is how your fees are used. The LMFT Board is only one of 18 licensing boards under the Texas Department of Health, Professional Licensing and Certification Division. The Division submits a budget to the Department, who then must submit a budget to the Legislative Budget Board, who decides how much money the Division will have. The LMFT Board has little or no authority over the fiscal operation of its office. Yet, each board must have enough income to support its operation. Basically, the fees you pay are used for salaries and equipment of the LMFT office, the expense of the Board meetings, travel and services provided by the Texas Department of Health, especially the Professional Licensing and Certification Division, investigators of complaints and for the services of the attorney from the Office of General Counsel.

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TSBEMFT Members

George Pulliam, MSSW, LMFT
Chair

Marvarene Oliver, Ed.D, LMFT
Vice-Chair

Waymon R. Hinson, Ph.D, LMFT
Professional Member

Brenda VanAmburgh, Ph.D, LMFT
Professional Member

Jackie M. Weimer, M.S., LMFT
Professional Member

Joe Ann Clack, M.B.E.
Public Member

Ellen Harrison
Public Member

Carl S. Strain
Public Member

Bishop William H. Watson
Public Member

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Last year, your fees amounted to \$262,441.00. The LMFT Board expenditures were \$175,171.00. The remainder \$87,270.00, stayed in the general fund of the State of Texas! We were not allowed to keep that money, carry it forward, or use it in any way. This is true of all Regulatory Boards in Texas. The Texas Department of Health alone contributed over \$400,000.00 to the State Treasury. Now you may want to make this contribution, but if you do not, I think you should question your legislative representatives about this. Just last year, we raised your renewal fees as we were told we did not have enough money to pay our expenses.

The number of licensees fluctuates, so how much money is generated changes from year to year. Our board could do a better job of setting fees, if we were allowed to manage our own budget and keep what we did not spend. The Texas Association of Marriage and Family Therapists are aware of these budgetary matters and I suggest you contact them if you have concerns or would like to comment.

Best wishes to all of you for a pleasant summer.

A licensure board is established by the Texas Legislature through a statute or law. In this case, it is known as the Marriage and Family Therapist Act. Originally, this law was found in the Texas Civil Statutes, Article 4512c-1. This law went through a process known as "codification" during the 76th Legislative session and is now found in the Occupations Code, Section 502. The Texas State Board of Examiners of Marriage and Family Therapists (board) is a nine member board consisting of five professional members and four members of the public appointed by the Governor with the consent of the Senate. The primary function of the board is to protect the citizens of Texas. The board accomplishes this mission by determining the qualifications and fitness of a license applicant and by adopting a code of ethics for license holders. Webster defines licensure as "the granting of a license to practice a profession". The board grants licenses to practice and then regulates that practice through a set of administrative rules. The marriage and family therapy rules are found at Title 22, Texas Administrative Code, Chapter 801.

A professional association, on the other hand, is an advocate or voice of a given profession. Webster defines an association as "an organization of persons having a common interest"; "a society of colleagues". It uses the strength of its participation to secure the character of the occupation.

The Texas Association for Marriage and Family Therapy, Inc., (TAMFT), has just that as its mission statement, "The mission of TAMFT is to use the power of the TAMFT organization to protect the integrity of the professional practice in the marketplace".

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Future Board Meetings:

August 13-14, 2000 Austin, Texas

October 22-23, 2000 Austin, Texas

Licensure Board vs. Professional Association

*Bobby D. Schmidt, M.Ed.
Executive Director*

Many days I am given the opportunity (or challenge) to explain to licensees and/or members of the general public the difference between the licensure board and the professional association that deals within the realm of marriage and family therapy. While it seems as if the two entities could perform the same functions, there are unique qualities to each.

The Communicator is published biannually by the Texas State Board of Examiners of Marriage and Family Therapists. A subscription to *THE COMMUNICATOR* is included with licensure and renewals. Notice of address changes should be sent to the Texas State Board of Examiners of Marriage and Family Therapists, 1100 West 49th Street, Austin, Texas 78756-3183. Telephone # 512/834-6657.

Comments concerning the content of this newsletter or suggestions for articles to be included in future issues should be forwarded to the Board office and marked to the attention of Georgia Norman, Editor.

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This association, TAMFT, achieves this mission by providing leadership and professional development opportunities, by facilitating local and statewide networking and by being a voice in the Texas Legislature and governmental affairs, as well as many other activities.

To summarize, there is a distinct difference between a licensing board and a professional association. The licensing board licenses qualified individuals and regulates them in an administrative arena. The professional association advocates for a profession in the marketplace, as well as with elected government officials.

As a licensed marriage and family therapist in the State of Texas, it may serve you well to keep in mind the different functions performed by your licensing board and your professional association. If you find yourself in a quandary, ask yourself the question: "Am I being regulated? Or "Am I being represented?"

The Role of a Public Board Member

Joe Ann Clack, M.B.E.

I am on the Texas State Board of Examiners of Marriage and Family Therapists, serving as a public member. The main purpose of a public board member is to express ideas and be watchful of the public interest. I am able to express ideas and opinions not from a professional point of view, but from a lay person. The professional board members are very open to any suggestions and/or opinions that are made by any public board member.

The mission of the Board is to protect and promote the health of the people of the State of Texas.

Our vision is simply dedicated to protecting Texans by promoting quality services and health care practices through competent providers and safe, properly maintained facilities.

As a public member, I am able to help decrease public suspicion thereby increasing confidence and trust in government. In addition, hopefully reducing the barriers for the "average citizen", in addressing the board. As a member of the Board, I am responsible for therapists maintaining high standards in practice and ensuring the quality of services for all clients. The Board also establishes acceptable codes of ethical behavior of all licensees. I am honored to be able to serve on the Texas State Board of Examiners of Marriage and Family Therapists and will continue to serve you, the public.

Application Review Committee

Ellen Harrison

The Application Review Committee meets prior to each Board meeting. The Committee reviews requests from licensees who are requesting to be on inactive status. A request for inactive status must be a written request and submitted with a \$75.00 inactive status fee. The inactive status period is 3 years and during this time, no additional fees or continuing education are required. However, a person may not act as a therapist or represent themselves as a therapist during the inactive status period. The committee also discusses and makes recommendations to the full board on applicants who may have exceptions to the requirements for licensure and base their review on the Board rules. The Executive Director reports to the Committee on the number of renewals and total figures for Licensed Marriage and Family Therapists.

Examination Information

Bobby D. Schmidt, M.Ed.
Executive Director

The Texas State Board of Examiners of Marriage and Family Therapists (board) is a member of the Association of Marriage and Family Therapy Regulatory Boards (AMFTRB). Membership in the AMFTRB is required in order for a state to have access to the examination developed for the profession of marriage and family therapy by Professional Examination Services, Inc. (PES). This development is accomplished by establishing a role delineation model which describes tasks and functions that a marriage and family therapist should be able to perform. Examination items are written based on these criteria which allows for the criterion based testing of individuals entering the field of marriage and family therapy.

This examination is given across the country on the second Friday in May and November. The next administration will be in Austin, Friday, November 3, 2000. The test date for this year was moved because some states will observe Veteran's Day on November 10, 2000. Currently, individuals in Texas must travel to Austin to take the exam. PES is currently working on the development of a computerized version in order that the examination will be more readily available.

The Board has administered the Marriage and Family Therapist examination five times over the last two and one half years. The first four administrations included the following six domains:

- Joining/Assessing/Diagnosis;
- Designing Treatment;
- Conducting a Course of Treatment
- Establishing & Maintaining Networks;

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- Assessing Outcomes;
- Maintaining Professional Standards;

The last examination in May 2000 included eight domains:

- Thinking about Practice
- Incorporating Awareness of the Larger System;
- Addressing Interpersonal & Family Process;
- Attending to Therapeutic Relationships;
- Assessing & Diagnosing;
- Designing & Conducting Treatment
- Evaluating Ongoing Process, Outcomes, & Terminology;
- Maintaining Professional Ethics & Standards of Practice.

Statistics to date are listed below:

Total Test.....	149
Total Passed.....	116
Passing Rate.....	77%
Average Score-Texas.....	72.43%
Average Score-National.....	71.57%

Continuing Education and Renewal

*Georgia Norman
Administrative Assistant*

A number of our calls are concerning continuing education. Each licensee is required to complete 15 hours of continuing education each year and 3 hours of marriage & family therapy ethics every 3 years.

Continuing education is required each year and there is no waiver or extension period. Continuing education programs must be related to marriage & family therapy.

Types of acceptable continuing education are: national/state/local conferences, graduate or institute courses, presenting or giving workshops, seminars, lectures, teaching graduate or undergraduate courses in marriage & family therapy, correspondence courses, satellite or distance learning courses and/or audio/video courses. **Audio/video courses can be credited for 4 hours of only per year and the ethics requirement cannot be used in this manner.** Copies of certificates or brochures are not required to be submitted, unless requested by the board office.

Please maintain your own continuing education files for at least 5 years. Please see §801.261-268, of the rules regarding continuing education for further information or call us at 512/834-6657.

We also receive a number of calls about the renewal of licenses. Renewal forms are sent along with the continuing education statement **60 days before your license expires.** This form is especially important because it contains areas to update home and work addresses, phone numbers, and the felony/misdemeanor question that all licensees must answer. It also contains the board's budget and fund number that the Texas Department of Health Fiscal office tracks to our board office and not another department.

Please be sure to complete and sign the renewal form and submit it with your continuing education statement, renewal fee and payment coupon in the color coded envelope (our color coded envelopes are olive).

If you haven't received your renewal forms before your birth month, please call our office for another form. We will be happy to fax or mail another one to you.

Court Says No Duty to Warn in Texas LMFT Rules Will be Revised

Carolyn Wright, Office of General Council

Scenario: Liable or Not?

You are a mental health professional seeing a troubled young man with a history of mental illness. He tells you that he "feels like killing" his stepfather. You conclude, as reflected in your case notes, that your client "has decided not to do it but that is how he feels." You tell no one about the threats. Your client is hospitalized, treated for seven days and within a month of discharge has shot and killed his stepfather. Now you are being sued in negligence for wrongful death by the woman who is the young man's mother and the victim's widow. She alleges that you had a duty to warn the victim, the victim's family, and medical/law enforcement officials of the threats made by your client against the stepfather.

Question #1: Do you have a duty to warn the intended victim or his family? No. In Texas, there is no duty under either the general state law governing confidential mental health communications or under the LMFT rules to notify the victim or the victim's family. In fact, the duty of confidentiality to the client is the chief obligation. Sec 611.002, Mental Health Records, Health and Safety Code.

Question #2: Do you have a duty to warn "medical or law enforcement personnel" if you believe there is a probability of imminent harm to the client or others? Yes, there is currently a duty to notify under the LMFT rules because they require more than the Mental Health Records statute (Chp. 611, Health and Safety Code).

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Under the Mental Health Records statute, there is no duty to notify police/medical personnel; however, the mental health provider "may disclose confidential information... to medical or law enforcement personnel if the professional determines that there is a probability of imminent physical injury by the patient to the patient or others or there is a probability of immediate mental or emotional injury to the patient". Sec. 611.004(a)(2), Health and Safety Code. As a practice tip, the professional should document the "probability" of harm in the patient's health records in the event the patient sues for wrongful disclosure to medical or law enforcement personnel. A patient aggrieved by the improper disclosure of confidential communications may seek injunctive relief and monetary damages. Sec. 611.005.

By contrast, the LMFT rules currently say that a licensee has a duty to "personally take reasonable action to inform responsible authorities and appropriate individuals", under the same probability of harm standard. 22 TAC sec. 801.44(g). However, in light of the Thapar ruling, the Board will propose a rule change requiring MFT licensees to do no more than the confidentiality statute requires. Chp. 611.002.

LMFT's, like all other mental health professionals, do not have a duty to advise the victim or the victim's family of the probability of harm. See question #1 above. Mental health practitioners should periodically check their licensing rules to see if the rules have changed. Practitioners with dual licenses should follow the licensing rules which are more strict. See, for example, the Licensed Professional Counselor rule at 22 TAC §681.32(m), which requires LPC's to take "reasonable action", to notify medical or law enforcement personnel.

NO DUTY TO WARN ANYONE: THE GENERAL RULE IN TEXAS.

Absent licensing rules to the contrary, the general rule in Texas, is there is no duty to warn. This principle was clearly articulated by the Texas Supreme Court in a June 1999, decision. See Thapar V. Zezulka, 994 S.W. 2nd 635 (1999), interpreting Health and Safety Code, Chapter 611, Mental Health Records.

Under the decision, disclosure is never required even to law enforcement officials, and is allowed only if there is a probability of injury by the client to himself or others. Disclosure without client consent is never allowed to the intended victim or his family.

The Texas Supreme Court decision directly contradicts the landmark 1976 Tarasoff case in which the California Supreme Court held that a mental health professional in that state had a duty to warn a clearly identifiable victim of his client's threats. Tarasoff v. Regents of the University of California, 551 P.2d 334 (1976). The Texas Supreme Court has clearly stated that there is no duty to warn in this state and that the Tarasoff rule does not apply here. State courts are not bound by the rulings of other states. Thus, California and Texas are free to have completely different state laws and court decisions on the duty to warn.

In Thapar, the Texas Supreme Court weighed the competing interests of preserving client confidentiality and the risk that the client may harm another and decided that client confidentiality wins out. Under Chapter 611.002, the basic rule in Texas is that "communications between a patient and a professional... are confidential" and "confidential communications... may not be disclosed, except in limited circumstances set out in Sec. 611.004.

One of those exceptions is that disclosure is permitted, but not required, to medical or law enforcement personnel, but only if the professional determines that there is a probability of imminent or immediate injury to the patient or others. Sec. 611.004(a)(2). In Texas, unless licensing rules governing specific professions require otherwise, the law remains as most practitioners and attorneys understood it to be before the ruling: mental health providers are not obligated to notify or warn anyone about threats made by a patient.

They may warn medical or law enforcement personnel but only if the professional determines there is a "probability" of imminent or immediate injury to the patient or others.

The Complaint Process

Anyone wishing to file a complaint against a Licensed Marriage and Family Therapist Act can contact the board office for a complaint packet. Please be specific as much as possible when completing the complaint packet and mail to the board office.

Once the complaint is received by the board office, the Executive Director will notify the alleged violator of the complaint within 45 days and request the person to submit a response to the allegation within 10 days of the notice.

The Executive Director will collect all information about the complaint and submit the complaint to be investigated. Once the investigation is completed, the findings are then reviewed by the Ethics Committee. If a violation does exist, the Ethics Committee may propose disciplinary action, cease/desist or other letter of concern. If there is no violation, the Ethics Committee may recommend to the Board that the complaint be dismissed. All parties involved will be notified in writing by the Executive Director. Please see Section §801.296 Complaint Procedures for more information.

Important Addresses to Remember

Forms sent to the board with a fee should be mailed to:
Texas State Board of Examiners of Marriage & Family
Therapists
PO Box 12197
Capital Station
Austin, Texas 78711-2197

All other correspondence can be mailed to:
Texas State Board of Examiners of Marriage and Family
Therapists
1100 West 49th Street
Austin, Texas 78756-3183

Internet & E-Mail:

Information about the board such as applications, rules, rosters, disciplinary actions and complaint packets are available on our website at:

<http://www.tdh.state.tx.us/hcqs/plc/mft.htm>

Our email address is:

mft@licc.tdh.state.tx.us

TSBEMFT Staff

Bobby D. Schmidt, M.Ed.
Executive Director

Georgia Norman
Administrative Assistant

Barbara DeLane
Administrative Assistant

Frequently Requested Numbers & Addresses

Texas Association of Marriage & Family Therapists
PO Box 140647
Austin, Texas 78714-0647
512/454-8626

American Association of Marriage & Family Therapists
1133 15th Street, Suite 300
Washington, DC 20005
202/452-0109

Texas State Board of Professional Counselors
1100 West 49th Street
Austin, Texas 78756
512/834-6658

Texas State Board of Social Worker Examiners
1100 West 49th Street
Austin, Texas 78756
512/719-3521

Texas Commission on Alcohol & Drug Abuse
9001 North IH 35, Suite 105
Austin, Texas 78756
512-349-6600

Texas State Board of Medical Examiners
333 Guadalupe Street
Tower III, Suite 610
Austin, Texas 78701
512/305-7010

Texas State Board of Examiners of Psychologists
333 Guadalupe, Suite 2-450
Austin, Texas 78701
512/305-7700

Consumer Complaints Hotline
1-800-942-5540



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