

**From:** [Sunset Advisory Commission](#)  
**To:** [Janet Wood](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Monday, April 30, 2018 12:50:13 PM

---

-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]  
Sent: Monday, April 30, 2018 12:32 PM  
To: Sunset Advisory Commission  
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS STATE BOARD EXAMINERS MARRIAGE AND FAMILY THERAPISTS

First Name: Jodie

Last Name: Elder

Title: PhD, LPC-S, LMFT

Organization you are affiliated with: TCA

Email:

City: Dallas

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

My name is Dr. Jodie Elder, and I have served as the Texas Counseling Association's Liaison to the TSBEMFT since 2012. In this role, I attend all of the TSBEMFT's Committee and Full Board meetings, observe their processes and decisions, and provide stakeholder input. In addition, I am licensed as both an LPC and LMFT, so I have the experience of being regulated by both the TSBEMFT and the TSBEP boards. I have monitored the Sunset Commission's work closely since the initiation of the process in 2016, and I appreciate the opportunity to provide feedback regarding the Sunset Advisory Commission's 2018-2019 report on the TSBEMFT, TSBEP, TSBSWE, and TSBEP.

As I have already provided public comment on the Sunset Commission Staff Report, the purpose of this letter is to respond to the proceedings of the Sunset Advisory Commission on Wednesday, April 25, 2018.

Maintaining the status quo or creating two separate administrative agencies for the four mental health licensing boards is NOT the most efficient use of taxpayer dollars. The state's interests are best served by forming ONE agency, the Texas Behavioral Health Council, as recommended in the Sunset Commission Staff Report. This model will make it easy for the Texas public to both find providers and file ethical complaints when necessary.

Holding a doctorate is not unique to psychologists. Many other mental health providers, such as myself and many of my colleagues, also hold this prestigious degree. There is no reason to have a stand-alone agency for psychologists. In fact, many psychologists are dually licensed by one of the other mental health boards – another reason they should be housed at BHEC.

Concerns about anti-trust litigation is unfounded because the inherent structure and processes of the BHEC are designed to prevent these problems.

Under BHEC, each board's rule-making authority will remain intact, and licenses will be issued by the boards, not

BHEC. The BHEC will review rules, but will only reject or send rules back to each board if the rules violate current statutes or create anti-competitive, monopolistic, or anti-trust scenarios. Therefore, this unique structure allows for the maintenance of the independent authority of each board, while also providing essential oversight to protect the state's interests.

The bill to create BHEC passed unanimously from the House Public Health Committee because it is a strong design that will best serve Texas. I respectfully request that the Sunset Advisory Commission continue to recommend and support the creation of BHEC in the upcoming legislative process.

Sincerely,  
Jodie Elder, PhD, LPC-S, LMFT

Any Alternative or New Recommendations on This Agency: None at this time.

My Comment Will Be Made Public: I agree

**From:** [Sunset Advisory Commission](#)  
**To:** [Janet Wood](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Monday, April 30, 2018 12:50:07 PM

---

-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]  
Sent: Monday, April 30, 2018 12:31 PM  
To: Sunset Advisory Commission  
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS STATE BOARD EXAMINERS PROFESSIONAL COUNSELORS

First Name: Jodie

Last Name: Elder

Title: PhD, LPC-S, LMFT

Organization you are affiliated with: TCA

Email:

City: Dallas

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

My name is Dr. Jodie Elder, and I have served as the Texas Counseling Association's Liaison to the TSBEMFT since 2012. In this role, I attend all of the TSBEMFT's Committee and Full Board meetings, observe their processes and decisions, and provide stakeholder input. In addition, I am licensed as both an LPC and LMFT, so I have the experience of being regulated by both the TSBEMFT and the TSBEP boards. I have monitored the Sunset Commission's work closely since the initiation of the process in 2016, and I appreciate the opportunity to provide feedback regarding the Sunset Advisory Commission's 2018-2019 report on the TSBEMFT, TSBEP, TSBSWE, and TSBEP.

As I have already provided public comment on the Sunset Commission Staff Report, the purpose of this letter is to respond to the proceedings of the Sunset Advisory Commission on Wednesday, April 25, 2018.

Maintaining the status quo or creating two separate administrative agencies for the four mental health licensing boards is NOT the most efficient use of taxpayer dollars. The state's interests are best served by forming ONE agency, the Texas Behavioral Health Council, as recommended in the Sunset Commission Staff Report. This model will make it easy for the Texas public to both find providers and file ethical complaints when necessary.

Holding a doctorate is not unique to psychologists. Many other mental health providers, such as myself and many of my colleagues, also hold this prestigious degree. There is no reason to have a stand-alone agency for psychologists. In fact, many psychologists are dually licensed by one of the other mental health boards – another reason they should be housed at BHEC.

Concerns about anti-trust litigation is unfounded because the inherent structure and processes of the BHEC are designed to prevent these problems.

Under BHEC, each board's rule-making authority will remain intact, and licenses will be issued by the boards, not

BHEC. The BHEC will review rules, but will only reject or send rules back to each board if the rules violate current statutes or create anti-competitive, monopolistic, or anti-trust scenarios. Therefore, this unique structure allows for the maintenance of the independent authority of each board, while also providing essential oversight to protect the state's interests.

The bill to create BHEC passed unanimously from the House Public Health Committee because it is a strong design that will best serve Texas. I respectfully request that the Sunset Advisory Commission continue to recommend and support the creation of BHEC in the upcoming legislative process.

Sincerely,  
Jodie Elder, PhD, LPC-S, LMFT

Any Alternative or New Recommendations on This Agency: None at this time.

My Comment Will Be Made Public: I agree

**From:** [Sunset Advisory Commission](#)  
**To:** [Janet Wood](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Wednesday, April 11, 2018 2:30:30 PM

---

-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]  
Sent: Wednesday, April 11, 2018 1:09 PM  
To: Sunset Advisory Commission  
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS STATE BOARD EXAMINERS PROFESSIONAL COUNSELORS

First Name: Jodie

Last Name: Elder

Title: LPC-S, LMFT

Organization you are affiliated with: Private Practice

Email:

City: Dallas

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

My name is Dr. Jodie Elder, and I have served as the Texas Counseling Association's Liaison to the TSBEMFT since 2012. In this role, I attend all of the TSBEMFT's Committee and Full Board meetings, observe their processes and decisions, and provide stakeholder input. In addition, I am licensed as both an LPC and LMFT, so I have the experience of being regulated by both the TSBEMFT and the TSBEP boards. I have monitored the Sunset Commission's work closely since the initiation of the process in 2016, and I appreciate the opportunity to provide feedback regarding the Sunset Advisory Commission's 2018-2019 report on the TSBEMFT, TSBEP, TSBSWE, and TSBEP.

Since the release of the Sunset Commission's 2016-2017 report, I have observed on numerous occasions representatives from each of the behavioral health licensing boards collaborating to streamline application and complaint resolution processes. The boards clearly heard the Sunset Commission's call to action, and they have achieved much in a brief time. For instance, they have created policies, which will soon be translated into rule, regarding complaint resolution that remove hearings from the public eye, utilize an objective penalty matrix, reduce shaming of clinicians, shield Protected Health Information (PHI), and hasten the resolution of complaints. In addition, they have changed application forms and processes, such as reducing the need for transcript reviews and no longer requiring reporting each location of practice or notarizing applications, to reduce the burden on applicants and shorten the time between application and licensure. Their efforts are to be commended.

Support for Sunset Commission Recommendations

- Unfortunately, despite the best efforts of the HHSC staff and behavioral health board members, I agree that the administrative attachment of these boards "to a large agency with higher priority responsibilities" is an ineffective model. Evidence for this assertion is easily found in the continued backlog of complaint resolution and application processing. Due to "chronic staff shortages and lack of attention and resources," both the board members and the HHSC staff are tasked with unattainable goals and unmanageable

workloads.

- The optimal solution for protecting the Texas public and serving licensees in a timely, effective manner is the consolidation of the behavioral health boards into the Texas Behavioral Health Executive Council

(TBHEC) (recommendation 1.1). With the strong foundation of the already well-functioning Texas Board of Examiners of Psychologists and the careful oversight of the transition by the Texas Behavioral Health Incubation Taskforce, the TBHEC will greatly improve the efficiency and effectiveness of the behavioral health boards. In this new entity, staff efficiency will increase because they will focus on specific job duties, such as processing applications or fielding customer service inquiries, instead of juggling numerous tasks simultaneously as they do in HHSC. It is my hope that this change will also decrease staff burnout and increase staff retention, thus preserving valuable institutional knowledge. In addition, the TBHEC Executive Council will be able to manage staff directly and will have sufficient appropriations to do so effectively. These two elements alone represent significant advantages of the TBHEC that will finally untether these boards, so they can freely and effectively regulate the practice of behavioral health licensees and protect the Texas public.

- The Texas Occupations Code statute section 502.252(c)(2)(B) requiring LMFT-Associates to complete 750 hours of direct clinical services to couples and families represents an unnecessary barrier to entry into this profession.

During my associate status, I struggled with meeting this requirement, and most current LMFT-Associates continue to struggle with meeting it as well. In fact, the Herculean task of completing these hours often dissuades graduate students from applying for the LMFT license at all, thus reducing the number of clinicians specializing in this field. I concur that removing the statute and “allowing the hours to be set by rule would allow for consideration of professional standards and the overall experience needs of the profession” (recommendation 2.5).

- Removal of the “good moral character” requirement in the Texas Occupations Code statute section 502.252(b)(5) (recommendation 2.3) would reduce the subjective nature of this evaluation and should instead be replaced with more objective and comprehensive evaluations of fitness to enter the profession, such as fingerprint-based criminal background checks through the Department of Public Safety (recommendation 2.1) and queries of the National Practitioner Data Bank (recommendation 2.2). This assessment process would achieve the same goal of preventing potentially harmful clinicians from practicing with Texas residents but would do so through a more empirical process. To similar ends, I support the change in statute in recommendation 2.2, which would “authorize the boards to check for disciplinary actions in other states or from other licensing boards as part of the license application and renewal process and to pursue any necessary enforcement actions based on the results.”

- Having seen the behavioral health licensing boards struggle with adopting new regulations for technology-assisted services, I wholeheartedly support recommendation 6.1 to adopt the Psychology Interjurisdictional Compact (PSYPACT). Further, I urge the Sunset Commission and the Texas Legislature to support similar measures regarding the practice of all behavioral health professionals. The inability to practice over state lines without being fully licensed in other states significantly impairs clinician’s ability to provide continuity of care and/or to engage with new clients in need of specialized services. Intentional collaboration is needed to increase access to care and improve reciprocity.

#### Opposition to Sunset Commission Recommendations

- While I support recommendation 1.1 about the creation of the Texas Behavioral Health Executive Council (TBHEC), I disagree with its proposed composition. I believe it is essential that each board “retain responsibility for developing and guiding all matters relating to their respective professions,” and thus the TBHEC should include one professional member and one public member from each behavioral health board, in addition to one presiding independent public member, all with voting rights. In my observations of the TSBEMFT, I have witnessed public board members rely on the professional board members’ expertise and perspective on countless occasions, regarding both rules and complaints. Having 4 professional and 5 public members vote on issues before the TBHEC accomplishes both goals of allowing clinicians to regulate the practice of their profession while also avoiding unwanted litigation. In fact, this model has proven to be very effective for other regulatory entities such as the Occupational Therapy and Physical Therapy Executive Council.

- To address the Sunset Commission’s concern regarding interference of one profession in the practice of other professions, I would assert that my observations over the past 6 years provide evidence to the contrary. While it may seem like splitting hairs in the eyes of a layperson, there are inherent, foundational differences between these professions that are recognized and honored by the professionals involved in these practices. Recent collaborations among the boards regarding changes to the complaint resolution and

application processes have been both effective and respectful, and I assert that these boards are fully capable of continuing such teamwork in their work at the newly formed TBHEC, while simultaneously appreciating the unique nature of each practice.

Any Alternative or New Recommendations on This Agency: • Regarding recommendation 3.10, I request a change in the statutes Texas Occupations Code section 502.303(b)(2), section 503.356(c), and section 505.404(c) requiring the behavioral health boards to “evaluate and approve continuing education courses.” The proliferation of continuing education courses makes it an impossible task for the boards to evaluate each one. However, it is possible for the boards to audit continuing education providers to ensure their compliance with standards in rule and to audit continuing education hours completed by applicants for licensure renewal. These processes would still ensure protection of the Texas public and continued competence of clinicians, but would do so through achievable goals for the mental health boards.

My Comment Will Be Made Public: I agree

**From:** [Sunset Advisory Commission](#)  
**To:** [Janet Wood](#)  
**Subject:** FW: Public Input Form for Agencies Under Review (Public/After Publication)  
**Date:** Wednesday, April 11, 2018 12:59:20 PM

---

-----Original Message-----

From: sundrupal@capitol.local [<mailto:sundrupal@capitol.local>]  
Sent: Wednesday, April 11, 2018 12:56 PM  
To: Sunset Advisory Commission  
Subject: Public Input Form for Agencies Under Review (Public/After Publication)

Agency: TEXAS STATE BOARD EXAMINERS MARRIAGE AND FAMILY THERAPISTS

First Name: Jodie

Last Name: Elder

Title: LPC-S, LMFT

Organization you are affiliated with: Private Practice

Email:

City: Dallas

State: Texas

Your Comments About the Staff Report, Including Recommendations Supported or Opposed:

My name is Dr. Jodie Elder, and I have served as the Texas Counseling Association's Liaison to the TSBEMFT since 2012. In this role, I attend all of the TSBEMFT's Committee and Full Board meetings, observe their processes and decisions, and provide stakeholder input. In addition, I am licensed as both an LPC and LMFT, so I have the experience of being regulated by both the TSBEMFT and the TSBEP boards. I have monitored the Sunset Commission's work closely since the initiation of the process in 2016, and I appreciate the opportunity to provide feedback regarding the Sunset Advisory Commission's 2018-2019 report on the TSBEMFT, TSBEP, TSBSWE, and TSBEP.

Since the release of the Sunset Commission's 2016-2017 report, I have observed on numerous occasions representatives from each of the behavioral health licensing boards collaborating to streamline application and complaint resolution processes. The boards clearly heard the Sunset Commission's call to action, and they have achieved much in a brief time. For instance, they have created policies, which will soon be translated into rule, regarding complaint resolution that remove hearings from the public eye, utilize an objective penalty matrix, reduce shaming of clinicians, shield Protected Health Information (PHI), and hasten the resolution of complaints. In addition, they have changed application forms and processes, such as reducing the need for transcript reviews and no longer requiring reporting each location of practice or notarizing applications, to reduce the burden on applicants and shorten the time between application and licensure. Their efforts are to be commended.

Support for Sunset Commission Recommendations

- Unfortunately, despite the best efforts of the HHSC staff and behavioral health board members, I agree that the administrative attachment of these boards "to a large agency with higher priority responsibilities" is an ineffective model. Evidence for this assertion is easily found in the continued backlog of complaint resolution and application processing. Due to "chronic staff shortages and lack of attention and resources," both the board members and the HHSC staff are tasked with unattainable goals and unmanageable



workloads.

- The optimal solution for protecting the Texas public and serving licensees in a timely, effective manner is the consolidation of the behavioral health boards into the Texas Behavioral Health Executive Council

(TBHEC) (recommendation 1.1). With the strong foundation of the already well-functioning Texas Board of Examiners of Psychologists and the careful oversight of the transition by the Texas Behavioral Health Incubation Taskforce, the TBHEC will greatly improve the efficiency and effectiveness of the behavioral health boards. In this new entity, staff efficiency will increase because they will focus on specific job duties, such as processing applications or fielding customer service inquiries, instead of juggling numerous tasks simultaneously as they do in HHSC. It is my hope that this change will also decrease staff burnout and increase staff retention, thus preserving valuable institutional knowledge. In addition, the TBHEC Executive Council will be able to manage staff directly and will have sufficient appropriations to do so effectively. These two elements alone represent significant advantages of the TBHEC that will finally untether these boards, so they can freely and effectively regulate the practice of behavioral health licensees and protect the Texas public.

- The Texas Occupations Code statute section 502.252(c)(2)(B) requiring LMFT-Associates to complete 750 hours of direct clinical services to couples and families represents an unnecessary barrier to entry into this profession.

During my associate status, I struggled with meeting this requirement, and most current LMFT-Associates continue to struggle with meeting it as well. In fact, the Herculean task of completing these hours often dissuades graduate students from applying for the LMFT license at all, thus reducing the number of clinicians specializing in this field. I concur that removing the statute and “allowing the hours to be set by rule would allow for consideration of professional standards and the overall experience needs of the profession” (recommendation 2.5).

- Removal of the “good moral character” requirement in the Texas Occupations Code statute section 502.252(b)(5) (recommendation 2.3) would reduce the subjective nature of this evaluation and should instead be replaced with more objective and comprehensive evaluations of fitness to enter the profession, such as fingerprint-based criminal background checks through the Department of Public Safety (recommendation 2.1) and queries of the National Practitioner Data Bank (recommendation 2.2). This assessment process would achieve the same goal of preventing potentially harmful clinicians from practicing with Texas residents but would do so through a more empirical process. To similar ends, I support the change in statute in recommendation 2.2, which would “authorize the boards to check for disciplinary actions in other states or from other licensing boards as part of the license application and renewal process and to pursue any necessary enforcement actions based on the results.”

- Having seen the behavioral health licensing boards struggle with adopting new regulations for technology-assisted services, I wholeheartedly support recommendation 6.1 to adopt the Psychology Interjurisdictional Compact (PSYPACT). Further, I urge the Sunset Commission and the Texas Legislature to support similar measures regarding the practice of all behavioral health professionals. The inability to practice over state lines without being fully licensed in other states significantly impairs clinician’s ability to provide continuity of care and/or to engage with new clients in need of specialized services. Intentional collaboration is needed to increase access to care and improve reciprocity.

#### Opposition to Sunset Commission Recommendations

- While I support recommendation 1.1 about the creation of the Texas Behavioral Health Executive Council (TBHEC), I disagree with its proposed composition. I believe it is essential that each board “retain responsibility for developing and guiding all matters relating to their respective professions,” and thus the TBHEC should include one professional member and one public member from each behavioral health board, in addition to one presiding independent public member, all with voting rights. In my observations of the TSBEMFT, I have witnessed public board members rely on the professional board members’ expertise and perspective on countless occasions, regarding both rules and complaints. Having 4 professional and 5 public members vote on issues before the TBHEC accomplishes both goals of allowing clinicians to regulate the practice of their profession while also avoiding unwanted litigation. In fact, this model has proven to be very effective for other regulatory entities such as the Occupational Therapy and Physical Therapy Executive Council.

- To address the Sunset Commission’s concern regarding interference of one profession in the practice of other professions, I would assert that my observations over the past 6 years provide evidence to the contrary. While it may seem like splitting hairs in the eyes of a layperson, there are inherent, foundational differences between these professions that are recognized and honored by the professionals involved in these practices. Recent collaborations among the boards regarding changes to the complaint resolution and

application processes have been both effective and respectful, and I assert that these boards are fully capable of continuing such teamwork in their work at the newly formed TBHEC, while simultaneously appreciating the unique nature of each practice.

Any Alternative or New Recommendations on This Agency: • Regarding recommendation 3.10, I request a change in the statutes Texas Occupations Code section 502.303(b)(2), section 503.356(c), and section 505.404(c) requiring the behavioral health boards to “evaluate and approve continuing education courses.” The proliferation of continuing education courses makes it an impossible task for the boards to evaluate each one. However, it is possible for the boards to audit continuing education providers to ensure their compliance with standards in rule and to audit continuing education hours completed by applicants for licensure renewal. These processes would still ensure protection of the Texas public and continued competence of clinicians, but would do so through achievable goals for the mental health boards.

My Comment Will Be Made Public: I agree