

Self-Evaluation Report

Texas State Board of Examiners of Professional Counselors



Presented to the

**Sunset Advisory Commission
August 2017**

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Texas State Board of Examiners of Professional Counselors Self-Evaluation Report

I. Agency Contact Information

Texas State Board of Examiners of Professional Counselors Exhibit 1: Agency Contacts, *Amended April 2016*

	Name	Address	Telephone & Fax Numbers	Email Address
Presiding Officer	Glynda Corley, Chair	P.O. Box 149347 Mail Code 1982 Austin, Texas 78714-9347	(512) 834-6791 (512) 834-6677 fax	lpc@dshs.texas.gov lpc@hhsc.state.tx.us
Agency Head	Cristina De Luna Executive Director	P.O. Box 149347 Mail Code 1982 Austin, Texas 78714-9347	(512) 834-6791 (512) 834-6677 fax	cristina.deluna2@hhsc.state.tx.us
Agency's Sunset Liaison	Sarah Faszholz Regulation and Standards Group - Project Manager	P.O. Box 149347 Mail Code 1982 Austin, Texas 78714-9347	(512) 834-6695 (512) 834-6677 fax	sarah.faszholz@hhsc.state.tx.us

Table 1 Exhibit 1 Agency Contacts

II. Key Functions and Performance

A. Provide an overview of your agency's mission, objectives, and key functions.

The Texas State Board of Examiners of Professional Counselors is the licensing and regulatory authority for professional counselors in Texas. The board's primary mission is to enforce licensure rules and standards for professional counselors as a means to protect and promote public health and welfare. The board accomplishes its mission by establishing and administering qualifications for licensure and license renewal and enforcing standards for the profession as specified in Chapter 503, Occupations Code.

The independent board is administratively attached to the Professional Licensing and Certification Unit (PLCU) at the Texas Department of State Health Services (DSHS) and does not function as an independent state agency. DSHS employs staff and provides necessary facilities and infrastructure to carry out the board's functions.

In accordance with Section 503.101, Occupations Code, the governor appoints nine members to the board, including five members who are licensed professional counselors — at least three of whom are in private practice and at least one of whom is a counselor educator — and four members who represent the public.

Key functions, powers, and duties of the Texas State Board of Examiners of Professional Counselors include:

- Promulgate rules necessary to carry out its duties (Sections 503.201(a) and 503.203, Occupations Code);
- Administer, coordinate, and enforce Chapter 503, Occupations Code (Section 503.203(a), Occupations Code);
- Issue licenses, including provisional and temporary licenses, and specialty recognitions to qualified applicants (Sections 503.303, 503.304, 503.308, 503.310, and 503.311, Occupations Code);
- Provide for the examination of license and specialty recognition applicants (Sections, 503.305, 503.3055, and 503.306, Occupations Code);
- Prepare and publish a registry of license holders (Section 503.207, Occupations Code);
- Adopt rules for the continuing education of a license holder (Section 503.356, Occupations Code);
- Establish fees in amounts reasonable and necessary to cover costs of administration (Section 503.202, Occupations Code);
- Adopt a code of professional standards and ethics for license holders (Sections 503.201(a)(3) and 503.203(a), Occupations Code);
- Receive and investigate complaints filed by consumers regarding license holders (Sections 503.209, 503.252, 503.253, 503.254, 503.2545, 503.255, and 503.2555, Occupations Code);

- Impose disciplinary action and/or assess an administrative penalty against a license holder found to be in violation of the law or rules (Sections 503.401, 503.402, 503.403, 503.404, 503.405, 503.501, and 503.502 Occupations Code); and
- Deny an application or probate, suspend, or revoke the license and/or specialty recognition of a license holder whose practice constitutes an ongoing and imminent threat to the public welfare (Sections 503.201(a)(2) and 503.403, Occupations Code).

B. Do your key functions continue to serve a clear and ongoing objective? Explain why each of these functions is still needed. What harm would come from no longer performing these functions?

Yes, the board's key functions continue to serve a clear and ongoing objective: to ensure public health, safety, and welfare. This includes the establishment of minimum training requirements as well as the enforcement of professional standards in the delivery of counseling services. Professional counselors should also be required to further develop and maintain their knowledge and skill levels biennially through continuing education and report to the board events (such as criminal convictions) that could reflect their fitness to practice.

Since each complaint may involve a situation in which a client's well-being is compromised, each complaint should be evaluated thoroughly. When evidence indicates that a violation has occurred, it is in the interest of public safety to initiate disciplinary proceedings against the license holder. Depending on the situation, a range of disciplinary actions may be imposed up to and including revocation of the person's right to practice in this state.

Public information, provided through the DSHS website, is necessary to inform license holders and Texans of the standards of practice and of the board's complaint procedures.

If these functions were no longer performed, the lack of regulation of professional counselors could result in Texas consumers receiving services from individuals who lack appropriate qualifications and standards. This could result in potential harm to vulnerable consumers.

C. What evidence can your agency provide to show your overall effectiveness and efficiency in meeting your objectives?

The program's workload statistics demonstrate overall effectiveness and efficiency. This includes annual totals of:

- persons licensed as professional counselors and interns;
- complaints received;
- jurisdictional complaints resolved; and
- disciplinary actions taken.

See Attachment 2, Health Professions Council's Annual Report for fiscal years 2015 and 2016 for details on the above-listed totals.

DSHS also performs specific activities related to assessing customer service, including a customer comment survey. Survey results in summary form are provided to the staff and board for analysis and improvements. See Attachment 20 for the Customer Survey and quarterly evaluations of the Customer Survey data.

D. Does your agency's enabling law continue to correctly reflect your mission, objectives, and approach to performing your functions? Have you recommended changes to the Legislature in the past to improve your agency's operations? If so, explain. Were the changes adopted?

In general, the enabling law continues to correctly reflect the mission, objectives, and approach to performing the regulatory functions of the board. The board has not recommended changes to the Texas Legislature to improve operations.

E. Do any of your agency's functions overlap or duplicate those of another state or federal agency? Explain if, and why, each of your key functions is most appropriately placed within your agency. How do you ensure against duplication with other related agencies?

There is no other state or federal agency that licenses and regulates Texas professional counselors. DSHS staff communicates regularly with other entities, including regulatory boards for marriage and family therapists, social workers, and sex offender treatment providers, to coordinate on matters of mutual interest to mental health care providers. Also, DSHS staff refers complaints not within the jurisdiction of the board to those programs that may regulate the individual or entity. For example, a complaint filed with the board against a licensed psychologist is referred to the Texas State Board of Examiners of Psychologists.

F. In general, how do other states carry out similar functions?

According to the National Board of Certified Counselors, all 50 states and the District of Columbia regulate the practice of mental health counseling through licensure or certification programs established under state boards or regulatory agencies. These jurisdictions vary in regulating counseling practice and in the titles that licensees may use in professional practice.

G. What key obstacles impair your agency's ability to achieve its objectives?

The board has identified that there are not enough staff to process licensing and enforcement work in a timely fashion. Furthermore, the board has determined that existing staff are inadequately trained. This is a key obstacle which impairs the Texas State Board of Examiners of Professional Counselors' ability to achieve its objectives.

H. Discuss any changes that could impact your agency's key functions in the near future (e.g., changes in federal law or outstanding court cases).

On Thursday, July 17, 2014, the United States Department of Defense (USDOD) published final rules in the Federal Register (79 FR 41636) related to minimum requirements for authorization to serve as a TRICARE Certified Mental Health Counselor (TCMHC), which allows for the

independent practice of professional counseling without the referral and supervision of a physician. These minimum requirements will become effective as of January 1, 2017. TRICARE is the health care program for active duty service members, National Guard and Reserve members, retirees, their families, survivors, certain former spouses and others registered in the Defense Enrollment Eligibility Reporting System.

These new federal minimum requirements for independent mental health counseling practice under TRICARE are more stringent than the board's licensing requirements with regard to the accreditation standards for the college or university from which an individual has received a counseling degree, as well as the qualifying examination. The new USDOD requirements specify that the qualifying degree must be from a Council for Accreditation of Counseling and Related Educational Programs (CACREP)-accredited program. Chapter 503 of the Occupations Code requires regional accreditation of the educational institution, and regional accreditation has minimum requirements which are not as stringent as CACREP program standards. The USDOD also requires passage of the National Clinical Mental Health Counseling Examination (NCMHCE) while the board requires passage of the National Counselor Exam (NCE) examination.

The result of these changes will be that many Texas-licensed professional counselors will not qualify for the TCMHC designation.

I. What are your agency's biggest opportunities for improvement in the future?

Increasing the use of online application and renewal systems will provide an opportunity to improve the efficiency and timeliness of licensure processing. Strategies to encourage use of the online system will be developed by DSHS staff and presented to boards for consideration. These may include moving to postcard notification of impending license renewal, rather than providing renewal letters and payment coupons, and creating mechanisms for electronic submission of supporting documentation.

Utilizing the results of the routine licensing audits implemented in FY 2015 will provide an opportunity to increase the quality and accuracy of licensure processing. This will allow for further development of staff training tools, such as license approval worksheets, and process improvements.

J. In the following chart, provide information regarding your agency's key performance measures included in your appropriations bill pattern, including outcome, input, efficiency, and explanatory measures.

The Texas State Board of Examiners of Professional Counselors is administratively attached to the DSHS Professional Licensing and Certification Unit and does not function as an independent state agency. DSHS provides the staff, facilities, and infrastructure necessary to accomplish the board's mission and functions.

The board is funded through an appropriation to DSHS, not the board, for Strategy 4.1.4 (Health Care Professionals). This appropriation funds 25 programs within DSHS. The General

Appropriations Act (GAA) does not contain a line-item appropriation to the board; in fact, the GAA does not mention the board. Consequently, there are no specific legislative performance measures associated with the board. However, shared performance measure reporting associated with the appropriation to DSHS for Strategy 4.1.4 (Health Care Professionals) is compiled quarterly. The report includes the number of health care professionals licensed and the number of professional complaint investigations conducted for all license types within the strategy. In addition, the performance measures include the percentage of licenses issued within the fiscal year and the percentage of licensed professionals with no recent violations. For statistical information specific to the Texas State Board of Examiners of Professional Counselors, the annual report of the Health Professions Council provides the total number of licensees, the number of new licenses issued, the number of renewal licenses issued, the number and type of complaints received, the number of jurisdictional complaints received, the number of complaint investigations completed, the number of jurisdictional complaints resolved, the method in which the complaints were resolved, the average length of time required to resolve a complaint, the total fees collected and the total expenses (see Attachment 2). The report is an opportunity for the board to assess its performance in those areas and provides statistical information used for staffing and resource allocations.

**Texas State Board of Examiners of Professional Counselors
Exhibit 2: Key Performance Measures — Fiscal Year 2016**

Key Performance Measures	FY 2016 Target	FY 2016 Actual Performance	FY 2016 % of Annual Target
N/A (see above)			

Table 2 Exhibit 2 Key Performance Measures

**Texas State Board of Examiners of Professional Counselors
Exhibit 2: Key Performance Measures — Fiscal Year 2017**

Key Performance Measures	FY 2017 Target	FY 2017 Actual Performance	FY 2017 % of Annual Target
N/A (see above)			

Table 3 Exhibit 2 Key Performance Measures

III. History and Major Events

Texas State Board of Examiners of Professional Counselors

1981

The 67th Texas Legislature enacted the Licensed Professional Counselor Act to take effect September 1, 1981. The law was codified in Vernon's Texas Civil Statutes, Article 4512g. The Texas Counseling Association worked closely with legislators as the bill went through the legislative process. The Act created a title protection regulatory program under the general direction of the Texas State Board of Examiners of Professional Counselors.

The Texas State Board of Examiners of Professional Counselors first met on November 20, 1981, at Texas Department of Health (TDH). The board was empowered to qualify, license, and regulate professional counselors to protect the public health, safety, and welfare. The board was created within TDH and organizationally placed in the Hospital and Professional Licensure Division.

1983

The 68th Texas Legislature amended Vernon's Texas Civil Statutes, Art. 4512g, to include counseling services related to marriage and family therapy in the list of exemptions identified in the original Act and to add a provision to prohibit the board from establishing a specialty in marriage and family counseling.

1984

The first licensure examination for professional counselors was administered.

1985

The Professional Licensing and Certification Division (PLCD) was formed within TDH and the licensing program for professional counselors was placed within PLCD.

State Medicare officials applied the federal requirement that Medicare certified hospital personnel must hold any available state license relating to the services provided. As a result, certain previously unlicensed practitioners performing psychotherapy and other mental health services were required to obtain licenses as professional counselors.

1989

The 71st Texas Legislature amended the Insurance Code to require that health insurance policies written or renewed after January 1, 1990, must include licensed professional counselors as professionals eligible to receive payments for the provision of mental health services.

The Licensed Professional Counselor Act was amended to provide the board with the authority to discipline a licensee, even if the licensee provided services in a setting exempt from the licensure requirement. The Act was also amended to provide authority to require examinations for certain specialties.

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1991

The 72nd Texas Legislature amended the Act to modify the section relating to the nature and composition of the board.

1993

The 73rd Texas Legislature considered recommendations from the Sunset Advisory Commission and amended the Act from title protection to practice protection. The practice of counseling as defined by the Act is prohibited unless a person holds a license issued by the board or falls under one of the exemptions in the Act. The board was authorized to adopt, by rule, a system under which temporary licenses may be issued to individuals who have met all academic requirements for licensing and who have entered into a supervisory agreement with a board-approved supervisor. The board's authority to establish specialty designations was deleted. The academic requirements for examination and licensure were increased to 48 graduate semester hours.

1995

The 74th Texas Legislature amended the Act to redefine "practice of counseling" and "counseling services," to exempt occupational therapists, to establish an art therapy specialty designation, and to modify the examination requirement for provisional license applicants.

1997

The 75th Texas Legislature amended the Act to increase the post-graduate experience requirement for examination and licensure to 3,000 clock-hours. Certified rehabilitation counselors were exempted from the licensing requirements of the statute.

1999

The 76th Texas Legislature re-codified the Act as Chapter 503, Occupations Code. The Act was also amended to exempt music therapists, changed the title of Executive Secretary to Executive Director, deleted the phrase "or the substantial equivalent" from the academic requirements section, clarified provisional license procedures, clarified initial license fee calculations, and granted subpoena authority to the board.

2003

The 78th Texas Legislature amended the Act to grant authority to assess administrative penalties for violations of the Act and/or rules.

The board's program and staff, along with 19 other regulatory programs housed within DSHS's Professional Licensing and Certification Division (PLCD), were reorganized along functional lines, instead of a programmatic arrangement that had been in place since the division's inception in 1985. The PLCD budget was reduced by 4.5 FTEs for the biennium. The reorganization was implemented on September 1, 2003.

2004

Texas Department of State Health Services (DSHS) was created as a new agency, a product of the consolidation of TDH, Texas Commission on Alcohol and Drug Abuse, and the mental health programs and services of the Texas Department of Mental Health and Mental Retardation. The board was organizationally placed within the Division for Regulatory Services, Health Care Quality Section, Professional Licensing and Certification Unit.

2005

The 79th Texas Legislature amended the Act to require applicants to take the National Counselor Exam in place of the Texas State Exam. The Jurisprudence exam requirement for initial license applicants was also added to the law.

2014

The board adopted rules changing the academic requirement for licensure from 48 graduate semester hours to 60 graduate semester hours beginning August 1, 2017.

2015

The 84th Texas Legislature enacted Senate Bill (SB) 200, which took a phased approach to restructuring the health and human services system, including transferring the Department of Assistive and Rehabilitative Services; client services at the Department of Aging and Disability Services, the Department of Family and Protective Services (DFPS) and the Department of State Health Services (DSHS); and certain administrative services to the Health and Human Services Commission (HHSC) on September 1, 2016. Regulatory programs (including DSHS PLCU, which supports the board's operations) as well as state supported living centers and state hospitals were required to transfer to HHSC on September 1, 2017. SB 200 required HHSC to develop and submit a detailed transition plan for moving all programs and functions to the newly created Transition Legislative Oversight Committee.

In addition, Senate Bill (SB) 202 transferred to the Texas Department of Licensing And Regulation (TDLR), during the biennium ending August 31, 2017, six health-related programs; transferred three health-related programs and one independent board to the Texas Medical Board as soon as practicable after September 1, 2015; and deregulated 9 programs — all currently supported by DSHS PLCU. The Texas State Board of Social Worker Examiners, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Examiners of Marriage and Family Therapists, and the Licensed Chemical Dependency Counselor Program — as well as the Council on Sex Offender Treatment — were unaffected by SB 202 and remain supported by DSHS PLCU.

2016

The Texas State Board of Examiners of Professional Counselors, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas State Board of Social Worker Examiners participated in a joint-rulemaking taskforce and adopted rules to implement Senate Bill (SB) 807 and SB 1307, 84th Legislature, Regular Session, 2015, which amended Texas Occupations Code, Chapter 55, relating to occupational license application; examination fees and licensing and renewal of certain military service members, military veterans, and military

spouses and to implement House Bill (HB) 1449, 84th Legislature, Regular Session, 2015, as it relates to child custody and adoption evaluations in certain suits affecting the parent-child relationship.

2017

Transfers of certain programs to the Texas Department of Licensing And Regulation (TDLR) as required by Senate Bill (SB) 202, 84th Legislature, Regular Session, 2015, were completed by August 31, 2017. Transition of regulatory programs, including the Department of State Health Services' Professional Licensing and Certification Unit (DSHS PLCU) to HHSC as required by Senate Bill (SB) 200, 84th Legislature, Regular Session, 2015, was completed by September 1, 2017.

IV. Policymaking Structure

A. Complete the following chart providing information on your policymaking body members.

**Texas State Board of Examiners of Professional Counselors
Exhibit 3: Policymaking Body**

Member Name	Term / Appointment Dates / Appointed by	Qualification	City
Glynda Corley, Chair	6 years / June 2001 / Governor	Licensed Professional Counselor - Supervisor	Jacksonville
Stephen Christopherson, Vice Chair	6 years / May 2009 / Governor	Licensed Professional Counselor	Pasadena
Dr. Sarah Abraham	6 years / October 2010 / Governor	Public Member	Sugar Land
Dr. Loretta Bradley	6 years / December 2015 / Governor	Licensed Professional Counselor - Supervisor	Lubbock
Brenda Compagnone	6 years / December 2015 / Governor	Licensed Professional Counselor - Supervisor	San Antonio
Lauren Dreszer	6 years / April 2011 / Governor	Public Member	San Antonio
Etienne H. Nguyen	6 years / April 2011 / Governor	Public Member	Houston
Leslie Pohl	6 years / May 2009 / Governor	Public Member	Austin
Dr. Christopher Taylor	6 years / December 2015 / Governor	Licensed Professional Counselor - Supervisor	Richardson

Table 4 Exhibit 3 Policymaking Body

B. Describe the primary role and responsibilities of your policymaking body.

As specified in Sections 503.201 – 503.211, Occupations Code, the board's primary role is to adopt and enforce rules relating to the licensure and regulation of professional counselors, including review of consumer complaints and discipline of license holders found to be in violation of the law or rules.

C. How is the chair selected?

Section 503.106(a), Occupations Code requires the governor to designate a member of the board as presiding officer and specifies that the presiding officer serves at the will of the governor.

D. List any special circumstances or unique features about your policymaking body or its responsibilities.

There are no special circumstances or unique features that distinguish the board from other regulatory boards administratively attached to DSHS Professional Licensing and Certification Unit.

E. In general, how often does your policymaking body meet? How many times did it meet in FY 2014? In FY 2015?

Section 503.109, Occupations Code requires the Texas State Board of Examiners of Professional Counselors to meet at least semiannually. The board and each of its committees held three meetings in fiscal year 2014 and three meetings in fiscal year 2015. The Complaints Committee and the Rules Committee also met for one additional meeting each in fiscal year 2015. In fiscal year 2016 and fiscal year 2017, the board and its committees convened four times. The Complaints Committee met two additional times in fiscal year 2016. In fiscal year 2017, the Complaints Committee convened four additional times and the Applications and Supervision Issues Committees met an additional three times.

F. What type of training do members of your agency's policymaking body receive?

Section 503.110, Occupations Code requires an appointee to complete a training program prior to assuming the member's duties. In addition, Section 101.101, Occupations Code requires the Health Professions Council (HPC) to establish a training program for the governing bodies of state agencies that regulate health professions. The training curriculum created by HPC was adapted for use with the regulatory boards administratively attached to the DSHS Professional Licensing and Certification Unit.

The training program includes information regarding the enabling legislation; the functions of the licensing program; the role of the program and the board; the rules of the board with an emphasis on the rules that relate to disciplinary and investigatory authority; the current costs and revenue for the board; the requirements of the open meetings law, Chapter 551, Government Code; the requirements of the open records law, Chapter 552, Government Code; the requirements of the administrative procedure law, Chapter 2001, Government Code; the requirements of the conflict of interest laws and other laws relating to public officials; and any applicable ethics policies adopted by the Texas Ethics Commission. Additionally, board members receive information concerning the board's placement within DSHS and the staffing, structure, and mission of the DSHS Division for Regulatory Services.

G. Does your agency have policies that describe the respective roles of the policymaking body and agency staff in running the agency? If so, describe these policies.

Section 503.154, Occupations Code requires the board to develop and implement policies that clearly separate the policy-making responsibilities of the board and the management responsibilities of the executive director and DSHS staff. See Attachment IV-G Board Policy: Responsibilities of board and staff.

H. What information is regularly presented to your policymaking body to keep them informed of your agency's performance?

At each regular meeting of the board, the executive director presents information regarding the number and categories of license holders. The Professional Licensing and Certification Unit manager provides information regarding the board's annual costs and revenue, legislation impacting the program or the Unit, management initiatives or projects within the Unit or DSHS Regulatory Services, DSHS legislative performance measures, staffing updates, and other information relative to the operation of the Unit and DSHS.

I. How does your policymaking body obtain input from the public regarding issues under the jurisdiction of the agency? How is this input incorporated into the operations of your agency?

The Texas State Board of Examiners of Professional Counselors uses a variety of mechanisms to obtain and incorporate public input. The board considers obtaining and using public input to be of critical importance in carrying out its duty to protect and promote public health and safety by regulating the practice of professional counseling.

Each board or committee meeting agenda has a public comment item. Agendas are posted in the *Texas Register* in compliance with the Texas Open Meetings Act. The board's stakeholders regularly address the board and provide input.

The board's structure lends itself to considerable input from the public, including four board members must represent the public and each board committee must have at least one public member.

In regard to rulemaking, stakeholders' recommendations for rule changes are considered. Proposed rules are posted in the *Texas Register* for review and comment. Public hearings may also be held during the rule comment period. The board fully considers all written comments received during the statutory public comment period, as well as oral comments received at public hearings. Rule proposals and adoptions are posted on the board's website and regularly updated. In particularly difficult matters of rule development, the board will consider development of a taskforce to ensure all interested parties are involved in the rule making process.

As funds allow, the board members and/or staff attend statewide conferences relating to professional counseling to receive direct input from the regulated community, present on board-related topics, provide information, and answer questions regarding the board and its functions.

J. If your policymaking body uses subcommittees or advisory committees to carry out its duties, fill in the following chart.

**Texas State Board of Examiners of Professional Counselors
Exhibit 4: Subcommittees and Advisory Committees**

Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
Complaints Committee	Four members / Two or three public and one or two professional members / The board chair appoints committee members for one-year terms.	To consider matters related to complaints and propose disciplinary action, as warranted, if a violation of the law or the rules is substantiated. The committee may also dismiss matters for no violation, for lack of substantiation of a violation, or for lack of jurisdiction.	Occupations Code §§ 503.205 and 503.2555 22 Tex. Admin. Code § 681.9 By law, the Complaints Committee must have at least one public member. By rule, each committee shall consist of least one public member and one professional member, unless the board authorizes otherwise.
Applications and Supervision Committee	Four members / Two public and two professional members / The board chair appoints committee members for one-year terms.	To consider matters relating to licensure and supervision.	Occupations Code § 503.205 22 Tex. Admin. Code § 681.9 By rule, each committee shall consist of least one public member and one professional member, unless the board authorizes otherwise.
Testing and Continuing Education Committee	Four members / Two public and two professional members / The board chair appoints committee members for one-year terms.	To consider matters relating to the jurisprudence examination administration and continuing education.	Occupations Code § 503.205 22 Tex. Admin. Code § 681.9 By rule, each committee shall consist of least one public member and one professional member, unless the board authorizes otherwise.
Rules Committee	Four members / Two professional and two public member / The board chair appoints committee members for one-year terms.	To consider matters relating to the board's rules, including proposals for rulemaking and management of the rule review process.	Occupations Code § 503.205 22 Tex. Admin. Code § 681.9 By rule, each committee shall consist of least one public member and one professional member, unless the board authorizes otherwise.

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Name of Subcommittee or Advisory Committee	Size / Composition / How are members appointed?	Purpose / Duties	Legal Basis for Committee
Professional and Regulatory Trends	Four members / Two public and two professional members / The board chair appoints committee members for one-year terms.	To consider matters relating to professional and regulatory counseling trends and make recommendations to the board for rule amendments, new rules, or other action.	Occupations Code §§ 503.205 22 Tex. Admin. Code § 681.9 By rule, each committee shall consist of least one public member and one professional member, unless the board authorizes otherwise.

Table 5 Exhibit 4 Subcommittees and Advisory Committees

V. Funding

A. Provide a brief description of your agency's funding.

The Texas State Board of Examiners of Professional Counselors is administratively attached to the DSHS Professional Licensing and Certification Unit and does not function as an independent state agency. DSHS provides the staff, facilities, and infrastructure necessary to accomplish the board's mission and functions.

The board is funded through an appropriation to DSHS, not the board, for Strategy 4.1.4 (Health Care Professionals). This appropriation funds 25 programs within DSHS. The General Appropriations Act (GAA) does not contain a line-item appropriation to the board; in fact, the GAA does not mention the board. All revenue and expenditures are processed, accounted for, tracked, and audited through the DSHS budget, fiscal, and audit structures.

Due to the absence of a legislative appropriation, the board is unable to hire its own staff or expend funds. Some information requested in Sections V (Funding), VI (Organization), and XI (Additional Information) is available in a format that is specific to the board, with some necessary modifications, and the modified information is submitted in this report.

The board's fee revenue exceeds the direct and indirect costs of operating the board's functions.

B. List all riders that significantly impact your agency's budget.

N/A (see above)

C. Show your agency's expenditures by strategy.

**Texas State Board of Examiners of Professional Counselors
Exhibit 5: Expenditures by Strategy — Fiscal Year 2014 (Actual)**

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
Licensing and Regulation of professional counselors	\$554,623	100%	N/A
GRAND TOTAL:	\$554,623	100%	N/A

Table 6 Exhibit 5 Expenditures by Strategy

**Texas State Board of Examiners of Professional Counselors
Exhibit 5: Expenditures by Strategy — Fiscal Year 2015 (Actual)**

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
Licensing and Regulation of professional counselors	\$626,255*	100%	N/A
GRAND TOTAL:	\$626,255*	100%	N/A

*Cost for 2015 reflects corrected amount that differs from the cost in the FY2015 Fee Resource Manual.

Table 7 Exhibit 5 Expenditures by Strategy

**Texas State Board of Examiners of Professional Counselors
Exhibit 5: Expenditures by Strategy — Fiscal Year 2016 (Actual)**

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
Licensing and Regulation of professional counselors	\$656,267	100%	N/A
GRAND TOTAL:	\$656,267	100%	N/A

Table 8 Exhibit 5 Expenditures by Strategy

**Texas State Board of Examiners of Professional Counselors
Exhibit 5: Expenditures by Strategy — Fiscal Year 2017
*Fiscal Year 2017 Data Is Not Yet Available***

Goal / Strategy	Amount Spent	Percent of Total	Contract Expenditures Included in Total Amount
Licensing and Regulation of professional counselors	Data not yet available	Data not yet available	N/A
GRAND TOTAL:	Data not yet available	Data not yet available	N/A

Table 9 Exhibit 5 Expenditures by Strategy

- D. Show your agency’s sources of revenue. Include all local, state, and federal appropriations, all professional and operating fees, and all other sources of revenue collected by the agency, including taxes and fines.**

**Texas State Board of Examiners of Professional Counselors
Exhibit 6: Sources of Revenue — Fiscal Year 2014 (Actual)**

Source	Amount
Licensing fees deposited into General Revenue Fund No. 0001, Revenue Code 356203 (total includes Administrative penalty fees of \$5,860)	\$1,535,732
TOTAL	\$1,535,732

Table 10 Exhibit 6 Sources of Revenue

**Texas State Board of Examiners of Professional Counselors
Exhibit 6: Sources of Revenue — Fiscal Year 2015 (Actual)**

Source	Amount
Licensing fees deposited into General Revenue Fund No. 0001, Revenue Code 356203	\$1,534,175
TOTAL	\$1,534,175

Table 11 Exhibit 6 Sources of Revenue

**Texas State Board of Examiners of Professional Counselors
Exhibit 6: Sources of Revenue — Fiscal Year 2016 (Actual)**

Source	Amount
Licensing fees deposited into General Revenue Fund No. 0001, Revenue Code 356203	\$1,599,897
TOTAL	\$1,599,897

Table 12 Exhibit 6 Sources of Revenue

**Texas State Board of Examiners of Professional Counselors
Exhibit 6: Sources of Revenue — Fiscal Year 2017
*Fiscal Year 2017 Data Is Not Yet Available***

Source	Amount
Licensing fees deposited into General Revenue Fund No. 0001, Revenue Code 356203	Data not yet available
TOTAL	Data not yet available

Table 13 Exhibit 6 Sources of Revenue

- E. If you receive funds from multiple federal programs, show the types of federal funding sources.**

**Texas State Board of Examiners of Professional Counselors
Exhibit 7: Federal Funds — Fiscal Year 2014 (Actual)**

Type of Fund	State / Federal Match Ratio	State Share	Federal Share	Total Funding
TOTAL				N/A

Table 14 Exhibit 7 Federal Funds

- F. If applicable, provide detailed information on fees collected by your agency.**

**Texas State Board of Examiners of Professional Counselors
Exhibit 8: Fee Revenue — Fiscal Year 2014**

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Professional Counselor Application Fee / Occupations Code § 503.202	\$90 & \$190 / None	2,772	\$355,750	General Revenue Fund
Professional Counselor Renewal Fee / Occupations Code § 503.202	\$100 / none	7,890	\$789,000	General Revenue Fund
Late Renewal Fee (up to 90 days) / Occupations Code § 503.202	\$125 / none	98	\$12,250	General Revenue Fund

Self-Evaluation Report

Fee Description/ Program/ Statutory Citation	Current Fee/ Statutory Maximum	Number of Persons or Entities Paying Fee	Fee Revenue	Where Fee Revenue is Deposited (e.g., General Revenue Fund)
Late Renewal Fee (90 day to less than one year) / Occupations Code § 503.202	\$150 / none	22	\$3,300	General Revenue Fund
Professional Counselor Inactive Fee / Occupations Code § 503.202	\$50 / none	383	\$19,150	General Revenue Fund
Duplicate License Fee / Occupations Code § 503.202	\$10 / none	537	\$5,370	General Revenue Fund
Art Therapy Specialty Designation Application Fee / Occupations Code § 503.202	\$30 / none	3	\$90	General Revenue Fund
Criminal History Evaluation Letter Fee / Occupations Code § 503.202	\$50 / none	30	\$1,500	General Revenue Fund
Verification Fee / Occupations Code § 503.202	\$10 / none	53	\$530	General Revenue Fund
Professional Counselor Supervisor Fee / Occupations Code § 503.202	\$100 / none	261	\$26,100	General Revenue Fund
Supervisor Renewal Fee / Occupations Code § 503.202	\$100 / none	1,854	\$185,400	General Revenue Fund
Professional Counselor Continuing Education Sponsor Fee / Occupations Code § 503.202	\$50 / none	1,043	\$52,150	General Revenue Fund
Office of Patient Protection Fee / Occupations Code § 101.307	\$1 & \$5 / max: \$1 for renewals; \$5 for initial license	10,662	\$43,020	General Revenue Fund
Texas Online Fee / Government Code § 2054.252(g)	\$5 & \$10 / max: \$5 for annual; \$10 for biennial occupational license	10,662	\$42,122	General Revenue Fund

Table 15 Exhibit 8 Fee Revenue

VI. Organization

The Texas State Board of Examiners of Professional Counselors is administratively attached to the DSHS Professional Licensing and Certification Unit, and does not function as an independent state agency. DSHS provides the staff, facilities, and infrastructure necessary to accomplish the board's mission and functions.

- A. Provide an organizational chart that includes major programs and divisions, and shows the number of FTEs in each program or division. Detail should include, if possible, Department Heads with subordinates, and actual FTEs with budgeted FTEs in parenthesis.**

For the organizational chart of the DSHS Professional Licensing and Certification Unit, see Attachment VI-A. The Unit is organized into groups with specific functions.

Policy, Standards, and Board Support Functions: Staff members who serve as executive directors for the Unit's licensing programs are organized within the Regulation and Standards Group. Other staff members in this group provide administrative support for board and committee meetings, and carry out examination-related functions. The board's executive director may serve as interim executive director as needed for another board or program during periods of vacancy.

Licensing and Customer Service Functions: Staff who process licensing applications and renewals, and provide customer service by telephone, fax, e-mail, and in-person, is organized within one of the Unit's three licensing groups. One of these groups, Licensing Group C, serves four licensing programs, including the Texas State Board of Examiners of Professional Counselors. Other programs served by Licensing Group C include the Council on Sex Offender Treatment, the Texas State Board of Examiners of Marriage and Family Therapists, and the Texas State Board of Social Worker Examiners. Group C supported the Dyslexia Therapist and Dyslexia Practitioner Licensing Program through its deregulation — as soon as practicable after September 1, 2015 — as required by Senate Bill 202, 84th Legislature, Regular Session.

Complaint and Investigation Functions: Staff members who receive, process, and investigate consumer complaints are organized within the Investigations and Quality Assurance Group, which provides complaint and investigation services for the five licensing programs of the Professional Licensing and Certification Unit.

B. If applicable, fill in the chart below listing field or regional offices.

**Texas State Board of Examiners of Professional Counselors
Exhibit 9: FTEs by Location — Fiscal Year 2014**

Headquarters, Region, or Field Office	Location	Co-Location? Yes / No	Number of Budgeted FTEs FY 2014	Number of Actual FTEs as of June 1, 2014
Headquarters	8407 Wall Street, Austin	No	9.62	8.98
			TOTAL: 9.62	TOTAL: 8.98

Table 16 Exhibit 9 FTEs by Location

**Texas State Board of Examiners of Professional Counselors
Exhibit 9: FTEs by Location — Fiscal Year 2015**

Headquarters, Region, or Field Office	Location	Co-Location? Yes / No	Number of Budgeted FTEs FY 2015	Number of Actual FTEs as of August 31, 2015
Headquarters	8407 Wall Street, Austin	No	9.62	8.98
			TOTAL: 9.62	TOTAL: 8.98

Table 17 Exhibit 9 FTEs by Location

**Texas State Board of Examiners of Professional Counselors
Exhibit 9: FTEs by Location — Fiscal Year 2016**

Headquarters, Region, or Field Office	Location	Co-Location? Yes / No	Number of Budgeted FTEs FY 2016	Number of Actual FTEs as of August 31, 2016
Headquarters	8407 Wall Street, Austin	No	9.29	9.29
			TOTAL: 9.29	TOTAL: 9.29

Table 18 Exhibit 9 FTEs by Location

**Texas State Board of Examiners of Professional Counselors
Exhibit 9: FTEs by Location — Fiscal Year 2017**

Headquarters, Region, or Field Office	Location	Co-Location? Yes / No	Number of Budgeted FTEs FY 2017	Number of Actual FTEs as of August 31, 2017
Headquarters	8407 Wall Street, Austin	No	8.79	8.79
			TOTAL: 8.79	TOTAL: 8.79

Table 19 Exhibit 9 FTEs by Location

C. What are your agency's FTE caps for fiscal years 2014–2017?

N/A

D. How many temporary or contract employees did your agency have as of August 31, 2014?

N/A

E. List each of your agency's key programs or functions, along with expenditures and FTEs by program.

**Texas State Board of Examiners of Professional Counselors
Exhibit 10: List of Program FTEs and Expenditures — Fiscal Year 2014**

Program	Number of Budgeted FTEs FY 2014	Actual FTEs as of August 31, 2014	Actual Expenditures
Licensing and regulation of professional counselors	9.62	9.62	\$554,623
TOTAL	9.62	9.62	\$554,623

Table 20 Exhibit 10 List of Program FTEs and Expenditures

**Texas State Board of Examiners of Professional Counselors
Exhibit 10: List of Program FTEs and Expenditures — Fiscal Year 2015**

Program	Number of Budgeted FTEs FY 2015	Actual FTEs as of August 31, 2015	Actual Expenditures
Licensing and regulation of professional counselors	9.62	9.62	\$626,255*
TOTAL	9.62	9.62	\$626,255*

*Cost for 2015 reflects corrected amount that differs from the cost in the FY2015 Fee Resource Manual.

Table 21 Exhibit 10 List of Program FTEs and Expenditures

**Texas State Board of Examiners of Professional Counselors
Exhibit 10: List of Program FTEs and Expenditures — Fiscal Year 2016**

Program	Number of Budgeted FTEs FY 2016	Actual FTEs as of August 31, 2016	Actual Expenditures
Licensing and regulation of professional counselors	9.29	9.29	\$656,267
TOTAL	9.29	9.29	\$656,267

Table 22 Exhibit 10 List of Program FTEs and Expenditures

**Texas State Board of Examiners of Professional Counselors
Exhibit 10: List of Program FTEs and Expenditures — Fiscal Year 2017**

Program	Number of Budgeted FTEs FY 2017	Actual FTEs as of August 31, 2017	Actual Expenditures
Licensing and regulation of professional counselors	8.79	8.79	unavailable until December 2017
TOTAL	8.79	8.79	unavailable until December 2017

Table 23 Exhibit 10 List of Program FTEs and Expenditures

Self-Evaluation Report

VII. Guide to Agency Programs

- A. Provide the following information at the beginning of each program description.
Amended April 2016

Name of Program or Function: Licensing and regulation of professional counselors

Location/Division: Professional Licensing and Certification Unit
Texas Department of State Health Services
8407 Wall Street, Austin, TX 78754

Contact Name: Cristina De Luna, Executive Director

Actual Expenditures, FY 2016: \$656,267 (FY 2017 data is not yet available.)

Number of Actual FTEs as of August 31, 2016: 9.29 (FY 2017 data is not yet available.)

Statutory Citation for Program: Chapter 503, Occupations Code

- B. What is the objective of this program or function? Describe the major activities performed under this program.

The board's mission is to regulate professional counselors in Texas in order to improve and maintain standards for the profession and to protect the public. The board accomplishes these goals by establishing and administering qualifications for licensure and license renewal and enforcing standards for the profession.

Major activities include:

- Adopt rules to administer and enforce Chapter 503, Occupations Code;
- Process, evaluate, and approve applications to become licensed professional counselors and/or to be recognized for specialty practice;
- Issue new and renew licenses and/or specialty recognition to qualified professional counselors;
- Process consumer complaints against license holders;
- Investigate and present complaints to the Complaints Committee, and impose enforcement sanctions against license holders found to be in violation of the law or rules; and
- Provide public information through the DSHS website concerning the regulation of professional counselors.

C. What evidence can you provide that shows the effectiveness and efficiency of this program or function? Provide a summary of key statistics and outcome performance measures that best convey the effectiveness and efficiency of this function or program.

The program's workload statistics demonstrate overall effectiveness and efficiency. This includes annual totals of:

- persons licensed as professional counselors and interns;
- complaints received;
- jurisdictional complaints resolved; and
- disciplinary actions taken.

See Attachment 2, Health Professions Council's Annual Report for fiscal years 2015 and 2016 for details on the above-listed totals.

DSHS also performs specific activities related to assessing customer service, including a customer comment survey. Survey results in summary form are provided to the staff and board for analysis and improvements. See Attachment 20 for the Customer Survey and quarterly evaluations of the Customer Survey data.

D. Describe any important history regarding this program not included in the general agency history section, including how the services or functions have changed from the original intent.

Refer to Section III – History and Major Events.

E. Describe who or what this program or function affects. List any qualifications or eligibility requirements for persons or entities affected. Provide a statistical breakdown of persons or entities affected.

The functions directly affect Texas consumers of services provided by persons regulated by the board. In fiscal year 2016, there were 23,717 licensed professional counselors and interns in Texas. The board does not collect data on how many clients those license holders serve.

Eligibility criteria for licensure are stipulated in Section 503.302, Occupations Code, and qualifications for licensure are found in Subchapters E, F, and G, Chapter 681, Title 22 Texas Administrative Code.

An eligible applicant must: (1) be at least 18 years of age; (2) hold a master's or doctoral degree in counseling or a related field; (3) complete a graduate degree at a regionally accredited institution of higher education and the number of graduate semester hours required by board rule; (4) complete the number of supervised experience hours required by board rule; (5) pass the license examination and jurisprudence examination; (6) submit an application, accompanied by the required application fee; and (7) meet any other requirement prescribed by the board.

To qualify as an Intern an applicant must demonstrate that he or she has:

- been conferred a master's degree in counseling or a related field from an accredited institution;
- completed coursework in specific counseling-related topics as mandated in Sections 681.81 – 681.83, Title 22 Texas Administrative Code;
- completed 300 clock hours of clinical experience; and
- passed the National Counselor Exam.

To qualify as a Professional Counselor an applicant must demonstrate that he or she has:

- met the qualifications for an Intern License; and
- completed the internship.

In addition, all applicants for a license must complete the board's jurisprudence examination and submit proof of completion at the time of application. The jurisprudence examination must have been completed no more than 24 months prior to the date of application.

Recognition as a *Board-approved Supervisor* is stipulated in Section 681.93, Title 22 Texas Administrative Code as follows: A board-approved supervisor must be actively licensed as a Professional Counselor in good standing for at least 60 months from the date of issuance, must complete a board-approved supervisor's training program, file an application, and pay the applicable fee.

F. Describe how your program or function is administered. Include flowcharts, timelines, or other illustrations as necessary to describe agency policies and procedures. Indicate how field/regional services are used, if applicable.

Rulemaking processes are carried out in accordance with the Administrative Procedure Act; Chapter 503, Occupations Code; and the policies and procedures of DSHS. See Attachment VII-F1 for the Application for Licensure Process flowchart and Attachment VII-F2 for the Complaint /Enforcement Process flowchart.

G. Identify all funding sources and amounts for the program or function, including federal grants and pass-through monies. Describe any funding formulas or funding conventions. For state funding sources, please specify (e.g., general revenue, appropriations rider, budget strategy, fees/dues).

Fees collected on behalf of the Texas State Board of Examiners of Professional Counselors are deposited into the General Revenue Fund.

H. Identify any programs, internal or external to your agency, that provide identical or similar services or functions to the target population. Describe the similarities and differences.

There is no other state or federal agency that regulates professional counselors in Texas. There are state boards and councils that regulate other mental health-related occupations, such as psychologists, social workers, marriage and family therapists, and sex offender treatment providers.

I. Discuss how the program or function is coordinating its activities to avoid duplication or conflict with the other programs listed in Question H and with the agency's customers. If applicable, briefly discuss any memorandums of understanding (MOUs), interagency agreements, or interagency contracts.

The board's licensure activities are distinct from the other programs listed in Question H, and there is no duplication or conflict. There are no memorandums of understanding, interagency agreements, or interagency contracts in effect.

J. If the program or function works with local, regional, or federal units of government, include a brief description of these entities and their relationship to the agency.

DSHS staff does not routinely interact with local, regional, or federal units of government. Occasionally, there is a need for cooperation or coordination with local law enforcement concerning a complaint investigation, or the professional counselor regulatory body in another jurisdiction, or state and federal agencies related to Medicaid/Medicare fraud. The board cooperates with investigations into licensee wrongdoing and takes action either in conjunction with other agencies, sharing information with another agency, or in response to information shared by another agency.

K. If contracted expenditures are made through this program please provide:

- a short summary of the general purpose of those contracts overall;
- the amount of those expenditures in fiscal year 2014;
- the number of contracts accounting for those expenditures;
- top five contracts by dollar amount, including contractor and purpose;
- the methods used to ensure accountability for funding and performance; and
- a short description of any current contracting problems.

N/A

L. Provide information on any grants awarded by the program.

N/A

M. What statutory changes could be made to assist this program in performing its functions? Explain.

The board is required to collect the Office of Patient Protection fee in accordance with Section 101.307, Occupations Code. The Office of Patient Protection no longer exists.

See also Section IX – Major Issues.

N. Provide any additional information needed to gain a preliminary understanding of the program or function.

N/A

O. Regulatory programs relate to the licensing, registration, certification, or permitting of a person, business, or other entity. For each regulatory program, if applicable, describe:

- why the regulation is needed;
- the scope of, and procedures for, inspections or audits of regulated entities;
- follow-up activities conducted when non-compliance is identified;
- sanctions available to the agency to ensure compliance; and
- procedures for handling consumer/public complaints against regulated entities.

The regulation of professional counselors is necessary as a means to protect and promote the public health, safety, and welfare of Texans. The regulation is intended to ensure that persons seeking mental health counseling services are receiving services from a qualified practitioner.

Chapter 503, Occupations Code does not provide authority for routine inspections or compliance audits of the licensee's worksite. When received, a jurisdictional consumer complaint is evaluated and, if appropriate, sent to investigations. Complaint files are presented to the Complaints Committee for review, determination of whether a violation has occurred, and the imposition of disciplinary action, if appropriate. The committee makes its recommendation, which is distributed to the licensee via a Notice of Violation.

When non-compliance is identified, a number of follow-up actions may be taken. In a complaint matter, the license holder may be required to complete additional continuing education and/or enforcement sanctions. DSHS staff monitors enforcement orders and report non-compliance to the Complaints Committee for appropriate disposition. If another complaint is received or if there is reason to believe the problem has not been resolved, the matter is re-investigated and submitted to the Complaints Committee for further disposition.

The board is authorized to impose a broad range of enforcement sanctions to ensure compliance with law and rules. These sanctions include denial of an application or renewal, administrative penalties, emergency suspension, reprimand, suspension, probation, and revocation. Procedures for handling consumer complaints are illustrated Attachment VII-F2-O.

P. For each regulatory program, if applicable, provide the following complaint information. The chart headings may be changed if needed to better reflect your agency’s practices.

**Texas State Board of Examiners of Professional Counselors
Exhibit 11: Information on Complaints Against Regulated Persons or Entities
Fiscal Years 2014-2017***

**Some Fiscal Year 2017 Data Is Not Yet Available*

	Fiscal Year 2014	Fiscal Year 2015	Fiscal Year 2016	Fiscal Year 2017
Total number of regulated persons	21,261	22,543	23,717	Not yet available
Total number of regulated entities	0	0	0	0
Total number of entities inspected	0	0	0	0
Total number of investigations	113	88	218	226
Total number of complaints received from the public	205	221	280	309
Total number of complaints initiated by agency	10	14	9	Not yet available
Number of complaints pending from prior years	307	265	488	Not yet available
Number of jurisdictional complaints received	190	201	289	302
Number of jurisdictional complaints resolved	93	104	104	184
Average number of days for complaint resolution	505	673	1,063	Not yet available
Complaints resolutions - Disciplinary action:	27	13	23	12
Administrative penalty	13	1	1	0
Reprimand	2	3	0	3
Probation	5	3	9	6
Suspension	0	1	1	0
Revocation	3	0	6	0
Denial	0	0	0	0
Surrender	4	5	6	3
Complaint resolutions - Other	66	91	81	172
No violation	40	50	32	100
Non-substantiated	4	4	1	9
Violation found and corrected	0	1	0	7
Withdrawal	1	2	0	3
License expiration	4	1	3	18
Warning letter	10	32	44	34
Cease and desist letter	7	1	1	1

Table 24 Exhibit 11 Information on Complaints Against Persons or Entities

VIII. Statutory Authority and Recent Legislation

- A. Fill in the following charts, listing citations for all state and federal statutes that grant authority to or otherwise significantly impact your agency. Do not include general state statutes that apply to all agencies, such as the Public Information Act, the Open Meetings Act, or the Administrative Procedure Act. Provide information on Attorney General opinions from FY 2011–2015, or earlier significant Attorney General opinions, that affect your agency’s operations.

Texas State Board of Examiners of Professional Counselors Exhibit 12: Statutes / Attorney General Opinions

Statutes

Citation / Title	Authority / Impact on Agency <i>(e.g., “provides authority to license and regulate nursing home administrators”)</i>
Occupations Code, Chapter 503 / Licensed Professional Counselor Act	Creates the Texas State Board of Examiners of Professional Counselors administratively attached to DSHS and provides authority to regulate professional counselors.
Occupations Code, Chapter 101 / Health Professions Council Act	Creates the Health Professions Council and defines membership to include the licensing boards and programs of the Professional Licensing and Certification Unit at DSHS (including the Texas State Board of Examiners of Professional Counselors).
Occupations Code, Chapter 53 / Consequences of Criminal Conviction	Provides authority to revoke, suspend, or deny a license based on criminal convictions in certain circumstances.
Education Code, §57.491 / Loan Default Ground for Non-renewal of Professional or Occupational License	Prohibits the board from renewing the license of a licensee whose name is on a default list provided by the Texas Guaranteed Student Loan Corporation.
Family Code, Chapter 232 / Suspension of License	Requires the board to suspend a license upon receipt of a court order suspending the license for failure to comply with the terms of a child custody order or failing to pay child support.
Title IV, Public Law 99-660, Health Care Quality Improvement Act of 1986 and 45 CFR, Part 60.	Establishes the National Practitioners Data Bank. Requires the board to report certain disciplinary actions to the NPDB.

Table 25 Exhibit 12 Statutes

Attorney General Opinions

Attorney General Opinion No.	Impact on Agency
ORD-2011-08927	Complaint information not subject to disclosure under Chapter 552, Government Code, Public Information Act.
Opinion No. GA-0944, May 30, 2012, related to Family Code, § 261.101(b)	A mental health professional is not required to report abuse or neglect that he or she believes occurred during an adult patient's childhood.
Opinion No. GA-1089, December 1, 2014, related to Government Code § 531.021(a); Human Resource Code § 32.021(a); Insurance Code § 1451.104	Confirms the Health and Human Services Commission’s rule Section 355.8091, Title 22 Texas Administrative Code — Counseling services provided by a licensed professional counselor, a licensed master social worker-advanced clinical practitioner, or a licensed marriage and family therapist ... are reimbursed at 70 percent of the existing fee for similar services provided by psychiatrists and psychologists as described in Section 355.8085 of this title (relating to Texas Medicaid Reimbursement Methodology (TMRM)) — is not contrary to, nor does it conflict with, Section 1451.104, Insurance Code, and does not govern a contract for services between a managed care organization and a health service provider.

Table 26 Exhibit 12 Attorney General Opinions

- B. Provide a summary of recent legislation regarding your agency by filling in the charts below or attaching information already available in an agency-developed format. Briefly summarize the key provisions. For bills that did not pass, briefly explain the key provisions and issues that resulted in failure of the bill to pass (e.g., opposition to a new fee, or high cost of implementation). Place an asterisk next to bills that could have a major impact on the agency.**

**Texas State Board of Examiners of Professional Counselors
Exhibit 13: 84th Legislative Session**

Legislation Enacted

Bill Number	Author	Summary of Key Provisions
SB 200	Nelson, et al.	<p>Senate Bill 200 takes a phased approach to restructuring the health and human services system, including transferring the Department of Assistive and Rehabilitative Services; client services at the Department of Aging and Disability Services, the Department of Family and Protective Services (DFPS) and the Department of State Health Services (DSHS); and certain administrative services to HHSC on September 1, 2016. Regulatory programs as well as state supported living centers and state hospitals will transfer to HHSC on September 1, 2017. Senate Bill 200 requires HHSC to develop and submit a detailed transition plan for moving all programs and functions to the newly created Transition Legislative Oversight Committee.</p> <p>In addition, Senate Bill 200 directs the executive commissioner, not later than September 1, 2018, to conduct a study and submit a report and recommendation to the Transition Legislative Oversight Committee regarding the need to continue the DFPS and DSHS as state agencies separate from the commission.</p>

Bill Number	Author	Summary of Key Provisions
SB 202	Nelson, et al.	Senate Bill 202 transfers to the Texas Department of Licensing And Regulation (TDLR), during the biennium ending August 31, 2017, six health-related programs; transfers three health-related programs and one independent board to the Texas Medical Board as soon as practicable after September 1, 2015; and deregulates 9 programs — all currently supported by DSHS PLCU. The Texas State Board of Social Worker Examiners, the Texas State Board of Examiners of Professional Counselors, the Texas State Board of Examiners of Marriage and Family Therapists, and the Licensed Chemical Dependency Counselor Program are unaffected by Senate Bill 202 and remain supported by DSHS PLCU. While the PLCU may move into another group or organizational structure, no impact to the key functions of the Texas State Board of Examiners of Professional Counselors is anticipated at this time.
SB 807	Campbell	Senate Bill 807 amended the Chapter 55, Occupations Code, requiring the board, by rule, to implement procedures to “waive the license application and examination fees paid to the state” for certain military service members, military veterans, or military spouses.
SB 1307	Menéndez	Senate Bill 1307 amended the Chapter 55, Occupations Code, requiring the board, by rule, to extend the deadline for military service members to meet license renewal requirements; provide alternative licensing and expedited license issuance and renewal procedures for military service members, military veterans, and military spouses; and establish apprenticeship requirements for applicants with military experience; as well as a required notice on the homepage of the board’s website describing the above-listed provisions that are available to military service members, military veterans, and military spouses.
HB 1449	Thompson, et al	House Bill 1449 amended the Texas Family Code as it relates to child custody evaluations and adoption evaluations conducted and testimony provided in certain suits affecting the parent-child relationship.

Table 27 Exhibit 13 Legislation Enacted 84th Leg

Legislation Not Passed

Bill Number	Author	Summary of Key Provisions / Reason Bill Did Not Pass
HB 3662	Hughes, et al	House Bill 3662 sought to amend Chapter 105, Civil Practice and Remedies Code, related to recovery of damages, attorney’s fees, and costs related to frivolous regulatory actions by state agencies.
HB 3713	Schaefer	House Bill 3713 sought to amend Subchapter A, Chapter 215, Local Government Code, related to the authority of a municipality to regulate occupations.
HB 3877 / HB 3898 (duplicate)	Sanford	House Bill 3877 sought to amend Chapter 55, Occupations Code, related to active duty personnel and exemption from penalty for failure to renew license as well as extension of certain deadlines for active duty military personnel.
HB 3974	Darby	House Bill 3974 sought to add Chapter 116 to Occupations Code, related to the records of certain disciplinary actions against health care professionals.
HB 3999	Naishtat	House Bill 3999 sought to amend Chapters 503 and 505, Occupations Code, related to the exemption of certain persons from licensure as a professional counselor or social worker.

Table 28 Exhibit 13 Legislation Not Passed 84th Leg

IX. Major Issues

Overview of Administrative Attachment

The three boards under review are fully independent regulatory entities with completely independent rule-making authority. However, unlike a typical licensing board, these boards are administratively attached to a large state agency. The boards are reliant upon the agency for all of its day-to-day function.

The following are the major obstacles inherent in the administrative attachment model:

- The boards have no line-item in the State budget
- The boards have no control over their funding
- The boards cannot hire (or dismiss) staff
- The boards are required to share resources with multiple unrelated programs

This model ensures that the boards have little to no control over the licensing and compliance functions for which they are held responsible.

Lastly, in their 2015 report on the Department of State Health Services the Sunset Commission staff summed up the failings of administrative attachment thusly:

... “independent boards, functioning as quasi-agencies unto themselves, yet operating within the structure of a larger agency, are a fundamental organizational mistake...”

ISSUE 1: Responsibility of Texas Department of State Health Services

A. Brief Description of DSHS Responsibility

State of Texas Department of State Health Services (DSHS) has the responsibility to aid the board to accomplish the tasks necessary to sufficiently license and oversee counselors while protecting the public within the State of Texas.

B. Discussion

Background: DSHS has proven their incompetency by creating a cause and effect which impedes the board’s primary mission “to protect and promote public health and welfare”. DSHS has failed in fulfilling this task to the point that they have caused the LPC Board and The State of Texas potential future litigation, legal problems and have created through their inability to manage, many costly setbacks. DSHS has been difficult to work with and has not provided relevant or productive employee supervision or employee management.

C. Possible Solutions and Impact

Create a separate, freestanding mental health licensing division. Use the same structure that is used for the psychology board. Move the mental health licensing division away from DSHS into

a less bureaucratic hierarchy, by creating a freestanding mental health licensing entity. Then the licensing office could disencumber themselves from the bureaucracy of DSHS and simply provide services necessary to license qualified applicants, to oversee the daily activities of running the office, to investigate and rule upon the public's complaints against our licensees.

According to the DSHS budget the LPC Board generates approximately \$1.5 million dollars by licensing approximately 22,000 LPC's a year with an operating budget of ½ million. Our licensing board alone generates \$1 million for the state of Texas.

The social work board could be housed within the same entity yet have an autonomous executive director etc. There would be approximately 45,000 to 50,000 licensees with the same general purpose of license and overseeing mental health providers.

ISSUE 2: Ineffective Licensing Structure

A. Brief Description of Ineffective Licensing Structure

Management structure within the Licensing Division is ineffective.

B. Discussion

The decision-maker in the structure has no control over their staff. Within the DSHS structure there are so many managers that the staff has a manager, the investigators have a manager, the attorneys are separate, and the executive director has no power or control or supervisory authority dealing with the staff members.

C. Possible Solutions and Impact

Create a freestanding board with the executive director having authority to manage and direct the staff.

ISSUE 3: Poor Management and Planning

A. Brief Description of Poor Management and Planning

Poor management and planning.

B. Discussion

The executive director has been with the department for approximately 20 years and has been executive director since October 2002 which is 14 years. She is talking about retiring and there is not one person who is trained to take on even a small part of her job responsibilities.

C. Possible Solutions and Impact

Create a freestanding board with the executive director having authority to manage and direct the staff.

ISSUE 4: Change the Name of the Board

A. Brief Description of Change the Name of the Board

The Texas State Board of Examiners of Professional Counselors was named such when the board was responsible for providing the examination for counselors to become licensed by the state. The board no longer holds this function. The name is a very long title and often gets cut off when there is a limited number of letters allowed. An example of this happened at a conference where the name was cut off to say "The Texas State Board of Examiners". The "of Professional Counselors" did not make the cut and so our main descriptor was also eliminated.

B. Discussion

In today's information overload, it is important to get the main point across to others in an effective, to the point title.

C. Possible Solutions and Impact

Changing the board's name to "The State Board of Professional Counselors" presents a more accurate descriptor of our function. It is easier to say, write, and explain. The name change could be phased out and changed as new certificates are made and the cost should be low to change those things that are more permanent.

ISSUE 5: Update Technology

A. Brief Description of Update Technology

As it currently stands, the important matters handled by the board and the staff supporting the board are reliant on outdated, slow, inefficient technology. Tasks that could be easily handled by our licensees on-line, are left to the board support staff because of the lack of updated technology options. An example: As of now, we are unable to hold a licensee accountable for taking the jurisprudence because the technology does not support having an additional line added for a certificate number to be written in to the renewal form. We have been asking for this for over 5 years. With over 20,000 LPC licensees in the State of Texas, it is impossible to audit a high enough percentage to ensure our licensees are indeed following this requirement of licensure renewal.

B. Discussion

It is cost-effective and efficient to have technology working to lighten the over-load of work the LPC support staff has in front of them on a daily basis. Their energy and focus would be better used on more important matters requiring their skill and experience, such as giving accurate and sound guidance to the many licensees that call in needing their help.

C. Possible Solutions and Impact

Upgrading our technology and providing well trained technicians will help hold accountability and empowerment with our licensees as well as increasing the amount of time the support staff has to give much needed attention to matters which require their expertise.

X. Other Contacts

- A. Fill in the following charts with updated information on people with an interest in your agency, and be sure to include the most recent email address.

**Texas State Board of Examiners of Professional Counselors
Exhibit 14: Contacts**

Interagency, State, or National Associations and Interest Groups

Group or Association Name/ Contact Person	Address	Telephone	Email Address
American Association of State Counseling Boards	305 N Beech Circle Broken Arrow, OK 74012	(918) 994-4413	AASCB@cce-global.org
American Counseling Association / Guila Todd, Legislation and Public Policy	6101 Stevenson Ave Suite 600 Alexandria, VA 22304	(800) 347-6647 (800) 473-2329 fax	gtodd@counseling.org
National Board for Certified Counselors / Tom Clausen	3 Terrace Way, Suite D Greensboro, NC 27403-3660	(336) 547-0607 (336) 547-0017 fax	nbcc@nbcc.org
Texas Counseling Association / Jan Friese, Executive Director	316 West 12th Street Suite 402 Austin, TX 78701	(512) 472-3403 (512) 472-3756 fax	jan@txca.org

and Texas Counseling Association Divisions:

- Texas Association for Adult Development Aging
- Texas Association of Marriage and Family Counselors
- Texas Mental Health Counselors Association
- Texas Association for Assessment in Counseling
- Texas Association for Humanistic Education and Development
- Texas School Counselor Association
- Texas Association for Counselor Education and Supervision
- Texas Career Development Association
- Texas College Counselors Association
- Texas Association for Gay, Lesbian, and Bisexual Issues in Counseling
- Texas Association for Multicultural Counseling and Development

Table 29 Exhibit 14 Interagency, State, and National Association

Liaisons at Other State Agencies

(with which your agency maintains an ongoing relationship, e.g., the agency's assigned analyst at the Legislative Budget Board, or attorney at the Attorney General's office)

Agency Name / Relationship / Contact Person	Address	Telephone	Email Address
Office of the Governor Appointments Division / Liz Doerr	Office of the Governor P.O. Box 12428 Austin, Texas 78711-2428 1100 San Jacinto Austin, TX 78701 Capitol Extension E1.008	(512) 463-1828 (512) 475-2576 fax	
Health Professions Council / John Monk, Administrative Officer	333 Guadalupe Street, Tower 2, Suite 220 Austin, TX 78701-3942	(512) 305-8550 (512) 305-8553 fax	jmonk@hpc.state.tx.us

Table 30 Exhibit 14 Liaisons at Other State Agencies

XI. Additional Information

The Texas State Board of Examiners of Professional Counselors is administratively attached to the DSHS Professional Licensing and Certification Unit, and does not function as an independent state agency. DSHS provides the staff, facilities, and infrastructure necessary to accomplish the board’s mission and functions.

Due to the absence of a legislative appropriation, the board is unable to hire staff or expend funds in its own name. Some information requested in Sections V (Funding), VI (Organization), and XI (Additional Information) is available in a format that is specific to the board, with some necessary modifications, and the modified information is submitted in this report.

- A. Texas Government Code, Sec. 325.0075 requires agencies under review to submit a report about their reporting requirements to Sunset with the same due date as the SER. Include a list of each agency-specific report that the agency is required by statute to prepare and an evaluation of the need for each report based on whether factors or conditions have changed since the statutory requirement was put in place. Please do not include general reporting requirements applicable to all agencies, reports that have an expiration date, routine notifications or notices, posting requirements, federally mandated reports, or reports required by G.A.A. rider. If the list is longer than one page, please include it as an attachment.**

**Texas State Board of Examiners of Professional Counselors
Exhibit 15: Evaluation of Agency Reporting Requirements**

Report Title	Legal Authority	Due Date and Frequency	Recipient	Description	Is the Report Still Needed? Why?
N/A					

Table 31 Exhibit 15 Agency Reporting Requirements

- B. Has the agency implemented statutory requirements to ensure the use of "person first respectful language"? Please explain and include any statutory provisions that prohibits these changes.**

Yes. See Attachment XI-B Respectful Language policy.

- C. Fill in the following chart detailing information on complaints regarding your agency. Do not include complaints received against people or entities you regulate. The chart headings may be changed if needed to better reflect your agency’s practices.

**Texas State Board of Examiners of Professional Counselors
Exhibit 16: Complaints Against DSHS Staff — Fiscal Years 2013 and 2014**

	Fiscal Year 2013 (data collection began July 2013)	Fiscal Year 2014
Number of complaints received	1	10
Number of complaints resolved	1	10
Number of complaints dropped / found to be without merit	0	5
Number of complaints pending from prior years	0	0
Average time period for resolution of a complaint	15 days	20.8 days

Table 32 Exhibit 16 Complaints Against the Agency

- D. Fill in the following charts detailing your agency’s Historically Underutilized Business (HUB) purchases.

**Texas State Board of Examiners of Professional Counselors
Exhibit 17: Purchases from HUBs**

Fiscal Year 2013

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal*	Statewide Goal
N/A					

Table 33 Exhibit 17 HUB Purchases for FY 2013

* If your goals are agency specific-goals and not statewide goals, please provide the goal percentages and describe the method used to determine those goals. (TAC Title 34, Part 1, Chapter 20, Rule 20.13)

Fiscal Year 2014

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
N/A					

Table 34 Exhibit 17 HUB Purchases for FY 2014

Fiscal Year 2015

Category	Total \$ Spent	Total HUB \$ Spent	Percent	Agency Specific Goal	Statewide Goal
N/A					

Table 35 Exhibit 17 HUB Purchases for FY 2015

E. Does your agency have a HUB policy? How does your agency address performance shortfalls related to the policy? (Texas Government Code, Sec. 2161.003; TAC Title 34, Part 1, rule 20.15b)

N/A

F. For agencies with contracts valued at \$100,000 or more: Does your agency follow a HUB subcontracting plan to solicit bids, proposals, offers, or other applicable expressions of interest for subcontracting opportunities available for contracts of \$100,000 or more? (Texas Government Code, Sec. 2161.252; TAC Title 34, Part 1, rule 20.14)

N/A

G. For agencies with biennial appropriations exceeding \$10 million, answer the following HUB questions.

1. Do you have a HUB coordinator? If yes, provide name and contact information. (Texas Government Code, Sec. 2161.062; TAC Title 34, Part 1, rule 20.26)

N/A

2. Has your agency designed a program of HUB forums in which businesses are invited to deliver presentations that demonstrate their capability to do business with your agency? (Texas Government Code, Sec. 2161.066; TAC Title 34, Part 1, rule 20.27)

N/A

3. Has your agency developed a mentor-protégé program to foster long-term relationships between prime contractors and HUBs and to increase the ability of HUBs to contract with the state or to receive subcontracts under a state contract? (Texas Government Code, Sec. 2161.065; TAC Title 34, Part 1, rule 20.28)

N/A

H. Fill in the charts below detailing your agency’s Equal Employment Opportunity (EEO) statistics.

**Texas State Board of Examiners of Professional Counselors
Exhibit 18: Equal Employment Opportunity Statistics**

1. Officials / Administration

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
N/A							

Table 36 Exhibit 18 EEO Statistics for Officials/Administration

2. Professional

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
N/A							

Table 37 Exhibit 18 EEO Statistics for Professionals

3. Technical

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
N/A							

Table 38 Exhibit 18 EEO Statistics for Technical

4. Administrative Support

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
N/A							

Table 39 Exhibit 18 EEO Statistics for Administrative Support

5. Service / Maintenance

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
N/A							

Table 40 Exhibit 18 EEO Statistics for Service and Maintenance

6. Skilled Craft

Year	Total Number of Positions	Percent African-American	Statewide Civilian Workforce Percent	Percent Hispanic	Statewide Civilian Workforce Percent	Percent Female	Statewide Civilian Workforce Percent
N/A							

Table 41 Exhibit 18 EEO Statistics for Skilled Craft

I. Does your agency have an equal employment opportunity policy? How does your agency address performance shortfalls related to the policy?

N/A