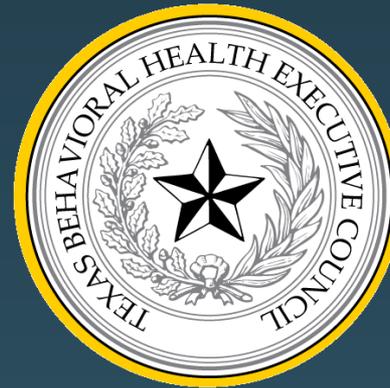


# Human Trafficking Prevention Training and BHEC/TSBEP Update



**TASP 2020 Virtual Summer Institute**  
**Thursday, June 18, 2020**



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Darrel D. Spinks, Executive Director

# Topics Covered

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- Human Trafficking Prevention Training
- Update on significant rule changes and issues at TSBE
- What is BHEC and what does it do?
- How will BHEC affect licensing of LSSPs?
- How does rulemaking work under BHEC?
- How are complaints handled under BHEC?
- Who do we contact if we have questions after September 1<sup>st</sup>?

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# Human Trafficking Prevention Training

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- HB2059 passed by the 86<sup>th</sup> Legislature added Chapter 116 to the Occupations Code.
- To help understand why this training was mandated, you are encouraged to visit the following website and watch the “Be the One” video:  
<https://www.texasattorneygeneral.gov/initiatives/human-trafficking>

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# Human Trafficking Prevention Training

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- Section 116.002 requires a health care practitioner to complete a training course approved by HHSC on identifying and assisting victims of human trafficking.
- LSSPs fall under the definition of “health care practitioner” set out in Section 116.001.

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# Human Trafficking Prevention Training

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- According to Section 116.003, a licensee must complete a training course described by Section 116.002 as a condition for renewal of a license.
- This training requirement is ongoing, i.e. must be completed prior to each renewal.
- Currently, only one course has been approved by HHSC: the SOAR to Health and Wellness course.

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# Human Trafficking Prevention Training

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- Unfortunately, accessing the SOAR to Health and Wellness course is extremely difficult.
- TSBEP staff developed detailed instructions on how to register for the training. These instructions can be found under TSBEP's *New Developments and Requirements* webpage.  
<http://www.tsbep.texas.gov/new-developments-and-requirements>

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# Human Trafficking Prevention Training

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- If you or your school have developed your own training and would like HHSC to approve it, please follow the instructions on HHSC's Health Care Practitioner Human Trafficking Training webpage to learn how to submit the training for review.
- <https://hhs.texas.gov/services/safety/texas-human-trafficking-resource-center/health-care-practitioner-human-trafficking-training>

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# Update on Significant Rule Changes and Issues at TSBEPC

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- Sent massive overhaul of all TSBEPC rules to BHEC at May 14<sup>th</sup> meeting
- Complete repeal of Chapters 461, 469, 471, and 473
- Only remaining Chapters are 463 (license eligibility), 465 (practice standards), and 470 (schedule of sanctions)
- Significant changes to license eligibility rules for psychologists
  - Credit toward post-doc hours for supervised experience acquired within doctoral program
  - Increased portability, i.e. Buckingham amendment and CPQ
  - Simplified Gap Rule

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# Update on Significant Rule Changes and Issues at TSBEP

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- Non-substantive changes to 463.9, i.e. cleaned up LSSP license eligibility rule
- Board voted to adopt EPPP Part 2

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# What is BHEC and what does it do?

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- The Texas Behavioral Health Executive Council (“Council”) was created by the 86th Legislature in 2019 following consecutive Sunset reviews in 2017 and 2019.
- The Council consists of the:
  - Texas State Board of Examiners of Marriage and Family Therapists
  - Texas State Board of Examiners of Professional Counselors
  - Texas State Board of Examiners of Psychologists
  - Texas State Board of Social Worker Examiners.

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# What is BHEC and what does it do?

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- The mission of the Council is to protect and promote the welfare of the people of Texas by ensuring that behavioral health services and social work practice are provided by qualified and competent practitioners who adhere to established professional standards.
- This mission is derived from the duly enacted statutes governing each regulated profession, as well as the law creating the Council, and supersedes the interest of any individual or special interest group.

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# What is BHEC and what does it do?

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- How does the Council accomplish this mission?
  - Licensing
  - Enforcement
  - Providing information
- Why was the Council established?
  - Improve and enhance the administrative functions and efficiencies needed to carry out the aforementioned functions
  - Provide active state supervision for rulemaking and enforcement functions

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# How will BHEC affect LSSP licensing?

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- The Council is precluded from making or changing rules in the following areas:
  - The qualifications necessary to obtain a license, including disqualifying criminal history
  - The scope of practice, standards of care, and ethical practice for the profession
  - Continuing education requirements
  - Schedule of sanction
- The Council has exclusive control over application and licensing processes

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# How will BHEC affect LSSP licensing?

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- Starting Sept. 1<sup>st</sup>, individuals must complete the jurisprudence exam prior to applying for licensure
- No longer required to display a copy of your license if you provide a patient or client written notification of your license number and instructions on how to verify same

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# How will rulemaking work under BHEC?

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- If the rule addresses one of the areas mentioned in 507.153, then the rule must originate with the member board.
- If the rule does not address one of the areas mentioned in 507.153, the Council may initiate rulemaking on its own.
- Generally speaking:
  - If you want to change a rule related to process - talk to BHEC
  - If you want to change a rule related to licensing criteria, practice standards, CE requirements, or the schedule of sanctions - talk to the appropriate member board first

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# How will rulemaking work under BHEC?

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- If a member board wants to change a rule covered by 507.153, it must submit that rule to the Council, and the Council will then conduct a three part analysis of the rule before deciding whether to publish the rule change in the Texas Register.
- The Council must consider the following factors when deciding whether to propose a rule change suggested by a member board:
  - Does the rule have an anticompetitive impact?
  - Is the rule administratively consistent with state and federal law?
  - Does the rule violate good governance concerns?

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# How will rulemaking work under BHEC?

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When determining whether a rule has an anticompetitive impact, the Council must consider the following factors:

1. Whether the proposed rule promotes a clearly articulated and affirmatively expressed policy as established by the legislature to displace competition with government action, or whether the proposed rule reflects the exercise of discretion or implied authority by a member board;
2. Whether absence of the proposed rule poses a significant risk of harm or danger to the public health, safety, or welfare of the residents of the state that is easily recognizable and not remote or dependent on tenuous argument;
3. Whether the proposed rule seeks to regulate activities or services requiring specialized skill or training and whether the public clearly needs and will benefit from the proposed rule;

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# How will rulemaking work under BHEC?

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4. Whether the proposed rule would have the effect of directly or indirectly increasing the cost of mental health services and, if so, whether the increase would be more harmful to the public than the harm that might result from the absence of the proposed rule;
5. Whether the proposed rule would significantly reduce market participation or competition in the state and, if so, whether the reduction would be more harmful to the public than the harm that might result from the absence of the proposed rule; and
6. Whether the residents of the state are or may be effectively protected by other means.

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# How will rulemaking work under BHEC?

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Two additional, but separate review processes that rules must go through with the Office of the Governor (OOG)

1. All proposed rules must be reviewed by the OOG Budget and Policy Division prior to publication in the Texas Register
2. All proposed rules affecting market competition (i.e., create a barrier to market participation or result in higher prices or reduced competition) within a licensed profession must be submitted to the OOG Regulatory Compliance Division for review prior to adoption.
  - a. The division publishes notice of its review and solicits public comment, and then issues a decision of whether or not an agency may adopt a rule as proposed.
  - b. There is no appeal from the division's decision to deny adoption of a rule.

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# How are complaints handled under BHEC?

## Summary of Complaint Process:

1. Complaint received by the Council
2. Investigator reviews to determine whether a violation has been stated on face of complaint
  - If not, complaint is dismissed
  - If so, complaint is sent to Investigations
3. Licensee is sent NOV and investigation ensues
  - If no P.C. found, complaint is dismissed
  - If P.C. found, licensee is either sent a proposed agreed order or an offer for informal conference
4. Informal Conference
  - If staff or disciplinary panel recommend a sanction, a proposed agreed order sent
  - If staff or disciplinary panel recommend dismissal, the complaint is dismissed
5. Informal vs. Formal Disposition of Complaints
  - Complaints resolved through an agreed order following an informal conference must be approved by the Executive Director, the Board, or the Council
  - Contested complaints are referred to SOAH for a contested hearing
6. The Board must review complaints heard at a contested hearing at SOAH and then make a recommendation to the Council regarding the appropriate sanction.
7. The Council must follow the Board's recommendation unless doing so would violate good governance concerns, be administratively inconsistent, or have an anticompetitive impact.
8. Appeal of Council decisions in contested cases must go through the state court system.

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# How to contact BHEC?

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- Executive Director is the **ONLY** employee of the Council until Sept. 1<sup>st</sup>.
- Council website will have a “Contact Us” webpage that lists how to get in touch with the appropriate division at BHEC
- Email communication will be strongly encouraged

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