

Advocacy Alert

Changes to the Code of Conduct

The Texas Chapter of the National Association of Social Workers (NASW) is outraged that the Texas State Board of Social Worker Examiners (TSBSWE) accepted language from the Governor of Texas removing protections against discrimination for disability, sexual orientation, gender identity and gender expression from the Social Work Code of Conduct. The Governor's office rationalizes this change by claiming that agency rules cannot be more expansive than what is in state law. However, [Chapter 505](#) of the Texas Occupations Code explicitly authorizes the TSBSWE to make rules regarding the ethical delivery of social work:

Sec. 505.2015. BOARD DUTIES. The board shall propose to the executive council:

(1) rules regarding:

(A) the qualifications necessary to obtain a license or order of recognition of specialty, including rules limiting an applicant's eligibility for a license or order based on the applicant's criminal history;

(B) the scope of practice of and standards of care and ethical practice for social work; and

(C) continuing education requirements for license holders or holders of orders of recognition of specialty; and

(2) a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

While under the disciplinary action section (Sec. 505.451) and nondiscrimination section (Sec. 505.004) gender identity, sexual expression and sexual orientation are not referenced, the latitude with which the TSBSWE can determine ethical practice gives the board the ability to set a Code of Conduct that aligns with the NASW [National Code of Ethics](#):

4.02 Discrimination

Social workers should not practice, condone, facilitate, or collaborate with any form of discrimination on the basis of race, ethnicity, national origin, color, sex, sexual orientation, gender identity or expression, age, marital status, political belief, religion, immigration status, or mental or physical ability.

It is important to highlight the fact that many federal courts have recently held that LGBTQIA persons are still protected from nondiscrimination based on sex and gender. So this does not allow social workers in Texas to discriminate against LGBTQIA people. But the Code of Conduct is the guide which serves as the foundation for the profession, and sexual orientation, gender identity and gender expression should receive protected status. Social workers already have the ability to decline to provide services to a client based on their competencies and training, but they cannot discriminate based on selective personal values.

As a report from the [UCLA Williams School of Law](#) shows, LGBTQIA People in Texas experience discrimination in employment and housing, face greater instances of bullying in school, and experience adverse health outcomes such as major depressive disorder, binge drinking, substance use, and suicidality. Additionally, [Health Resources & Services Administration](#) (HRSA) data indicates that almost 200 counties in Texas are listed as a Mental Health Professional Shortage Area (MHPSA). A potential

lack of providers combined with the ability to discriminate not only equates to bad outcomes, but it could lead to tragic consequences for an LGBTQIA individual should they be rejected by a provider for a personally held belief placed before an adherence to the Code of Ethics.

So What Can You Do?

Now is the time to act, and while this rule was adopted by the TSBSWE and approved by the Behavioral Health Executive Council (BHEC), meaning protections for sexual orientation, gender identity and gender expression were stricken from the Code of Conduct, there are still opportunities to advocate.

1. If you would like some background on the proceedings, you can watch the joint TSBSWE and BHEC meeting from October 12: <https://youtu.be/DvrnvUF283E>. The discussion on the Governor's recommendation begins at the 25:38 mark, and you can listen to comments starting at 51:16. Later on during the comments there is a brief discussion from Chair Canseco around adding this issue to the October 27 BHEC meeting and taking steps there to address the removal of these protections at the TSBSWE.
2. You can contact the Governor (<https://gov.texas.gov/contact>) and share your opinion. Feel free to use these comments, either as is, by customizing them or developing your own:

Governor Abbott, my name is _____ and I am a social worker in Texas working in _____ and also a member of the National Association of Social Workers. I am deeply disappointed that your office would recommend changes to the Texas State Board of Social Worker Examiners regarding the Social Work Code of Conduct in Texas, removing protections for sexual orientation, gender identity and gender expression. The Code of Conduct was developed through the rules making process, with ample input from the public. Any changes to the Code should also require public comment, and I am asking you to order the Behavioral Health Executive Council to pull back these changes and post them in the Texas Register for public comment. Additionally, the Behavioral Health Executive Council should implement protections for sexual orientation, gender identity and gender expression for all of the boards under the Council. Thank you for the opportunity to make this request.

3. You can contact your State Senator and State Representative (find them here: <https://wrm.capitol.texas.gov/home> and then look up their phone and or email here: <https://www.texastribune.org/directory/>) and share your opinion. Feel free to use these comments in an email or call, either as is, by customizing them or developing your own:

State Representative (or State Senator) _____ my name is _____ and I am a constituent in your district. I am a social worker in Texas working in _____ and also a member of the National Association of Social Workers. Recently, the Texas State Board of Social Worker Examiners changed their Code of Conduct after input from the Governor's office. Protections against discrimination for sexual orientation, gender identity and gender expression were removed.

The Code of Conduct for social workers in Texas is based directly off of the National Association of Social Workers Code of Ethics, established in 1960. It is the basis for the codes of conduct or ethics in every state. The Code of Conduct in Texas was reaffirmed in 2010 through the rules process, updated in 2012 through the rules process, and in all

instances any changes were open to public comment. The Texas State Board of Social Worker Examiners and the Behavioral Health Executive Council recently readopted our rules, and when they chose to accept the Governor's recommendation to change the Code did not repost this section for public comment. Social workers, and the public at large, were denied the opportunity to share their input on this significant rules change.

I am requesting that you reach out to the Governor and ask him to require the Behavioral Health Executive Council to pull down this change immediately and post it to the Texas Register for comments. I am also asking that you send a letter to the Texas Behavioral Health Executive Council (333 Guadalupe St., Ste. 3-900 Austin, Texas 78701) prior to their October 27 meeting asking them to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration.

Thank you for the opportunity to provide you with this information and request, and if you have any questions I can be reached at _____.

4. You can testify at the Tuesday October 27 BHEC hearing, expressing both your concern that this change was adopted without public comment, and asking BHEC to formally adopt rules that extend protections for sexual orientation, gender identity and gender expression to all of the boards under their administration, including the TSBSWE. The meeting information has not been posted yet, but if you scroll to the bottom of this page <https://www.bhec.texas.gov/index.html> you can sign up for updates. NASW/TX will also send out information on the meeting as we learn more. It will be a virtual meeting and you'll get the opportunity to speak on Zoom, but expect a lot of testimony so it may be a long day.
5. Make the public aware of this change by writing op-eds, reaching out to your local papers, news stations, etc. and post your concerns on social media. The Governor rewriting the Code of Conduct for social workers is an egregious example of leadership in Texas erasing protections for LGBTQIA individuals by overstepping their role in rules oversight. Amplify this message in your own words, explaining why the protections in the Code of Conduct and Code of Ethics are so vital to this profession, and why social workers believe that their own personal beliefs should never impede a client's right to self-determination and access to services.

NASW/TX is currently in contact with a variety of groups and organizations at the state and national level to increase the advocacy around this issue. We've been talking to attorneys in and out of the association on possible legal steps, although there are some concerns about the viability of these options. We are already discussing legislation next session to restore these protections to the Code of Conduct. But while we are unsure if BHEC can extend protections for sexual orientation, gender identity and gender expression, that's an important advocacy ask. We hope you will show up at the October 27 meeting and express your feelings about the removal of these protections without public comment beforehand, and ask BHEC to institute them at the Council level for all of the boards.

If you're a member of NASW/TX please be on the lookout for further updates and more ways you can get involved. If you're not, we hope [you'll join](#), as our advocacy is propelled by member input, and your support is what allows us to harness the power of social workers across Texas. Stay tuned for next steps and ways that NASW and its members are opposing this attack on vulnerable individuals outside of the rules process.

