Introduction

Welcome to the Texas Psychological Association’s (TPA) quarterly report. The information contained within is intended to provide a brief snapshot of the advocacy efforts conducted by TPA during each three-month period.

Legislative Advocacy

TPA Stands by and Supports Trans Youth, their Parents, and Providers

In response to the Texas Attorney General’s non-binding opinion KP-0401 released on February 18, 2022, as well as Gov. Abbott's February 22, 2022, letter to the Department of Family and Protective Services (DFPS) Commissioner "directing" DFPS to investigate such accusations, the TPA Board of Trustees (BOT) and President Dr. Alfonso Mercado have issued the following statement: TPA stands by and supports trans youth, their parents, and providers. Gender-affirming medical care supports children’s mental health. TPA reminds all psychologists that these are non-binding opinions. No laws on the definition of what constitutes child abuse have changed. The Attorney General’s opinion does not address medically necessary health care. Gender-affirming care is medically necessary health care and, thus, is not defined as child abuse.

Tenure at Texas Institutions

TPA’s BOT and Representatives of the Academic and Higher Education Committee (AHEC) are concerned about recent comments made by Lieutenant Governor Dan Patrick regarding the ability of academics in Texas to obtain and retain tenure. In response, they wrote a letter outlining their reasons for concern and stated their charge to legislators. A copy of the letter will be sent to representatives within the Texas State Assembly. The BOT and AHEC are looking for individuals who would be willing to co-sign this letter: https://tinyurl.com/2p8kuna5

Regulatory Advocacy

Behavioral Health Executive Council

BHEC Opinion Request

TPA, in collaboration with the National Association of Social Workers - Texas Chapter, the Texas Counseling Association, the Texas Association of Marriage and Family Therapists, and the Texas Society for Clinical Social Work, submitted a response to an AG Opinion Request. The Behavioral Health Executive Council (BHEC) submitted the request, asking what BHEC’s authority is to modify rules undergoing the quadrennial rule review when a member board refuses to make a change. The response argues that BHEC has no such authority, as that was not contemplated by the legislature when the Council was created. You may view the request HERE. You may view TPA’s response HERE.

BHEC First Executive Council Meeting Update

BHEC held its first meeting of 2022 on February 1. Here are our key takeaways: The Council is making progress toward reducing its average time of complaint resolutions from 783 days to its goal of 759 days. This number reflects the backlog issues because the process is generally much improved. BHEC’s application processing times are running smoothly. However, there is a big delay in psychology because of ASPPB’s requirement to first apply before sitting for the EPPP. Other boards allow for applicants to test before submitting a formal
application, which puts BHEC in control of the speed of processing.

The Council discussed whether to continue to request a change in fees as the recommended changes will result in a $1.7 million loss in general revenue (LP fees are almost cut in half). Even though the Governor requested agencies to review their fees and set them at 75% of the national average or lower, doing so will have a dramatic effect on the overall revenue and, if denied, they would have to quickly propose new rules. (We were alarmed to hear this, as these concerns were not disclosed to the Fee Subcommittee before discussed at the BHEC Meeting. We are bringing this issue up now.)

The webinar “Insights Over the Lunch Hour: An Opportunity to Visit with Executive Staff” on February 28 was approved for PD credit, allowing attendees to earn one hour of credit in Ethics. All rules for the other boards were approved for adoption, as well as several BHEC rules. The 463.12, Temporary License, rule will go back to TSBEP for further deliberation. The last item prohibited a temporary license to someone who has ANY disciplinary actions in the past 10 years, and the point was made that this could be an anticompetitive issue as that individual is still licensed to practice in their current state (it could be only a PD deficiency, which was resolved) and the rule would keep them from practicing here.

Regarding the 463.11, Supervised Experience, rule, TSBEP Chair John Bielamowicz praised the professional members for their efforts in the improved language and obtaining a unanimous vote in favor of the rule proposal. (We appreciate Dr. Becker advocating for remediation options that would also not adversely affect the public by upholding standards of practice.)

Texas State Board of Examiners of Psychologists

TPA Successfully Defends Licensure Standards

Late last year, TSBEP proposed changes to 22 TAC § 463.11. These proposed changes essentially would have allowed TSBEP to waive the predoctoral internship requirement prior to licensure on a case-by-case basis, as well as allow for other supervisory modifications. With your help, TPA successfully fought the adoption of this rule at BHEC, and the licensed psychologist members of TSBEP and public member Dr. Jeanette Deas Calhoun voted against its adoption.

In December, Dr. Bielamowicz reached out to former TPA Executive Director, Jessica Magee, asking TPA to reconsider its position because TSBEP was under significant legislative pressure from Sen. Nichols and Rep. Ashby to adopt policies to address situations where an otherwise qualified individual does not meet licensing standards. The TPA BOT appointed one of its members, Dr. David Hill, to participate in discussions with TSBEP, after which it called a special meeting on January 15th. The outcome of this special meeting was to refrain from adopting language that would reduce national standards for licensure. A consensus on wording could not be reached before the January 28th TSBEP special meeting, but several members were still
working to address TPA’s concerns regarding the use of the word “waiver.”

At the TSBEP special meeting, Dr. Jamie Becker, working with Drs. Cartwright and Roxana Lambdin, proposed revised wording to address concerns that the term “waiver” allows loopholes unacceptable to psychologists. The newly adopted language is “may petition for permission to remediate the area,” which is consistent with the language used in other states. This wording will still allow the Board to consider petitions and find acceptable remediation plans for minor deficiencies only.

(BHEC/TSBEP Committee Members: Drs. Carol Grothues and Bret Moore, Co-Chairs Fran Douglas; David Hill; Dan Roberts, and Corrine Zupanick; and Brian Stagner as Director of Professional Affairs).

Texas Education Agency

In order for a student to receive services at school, they must have a signed Other Health Impairment (OHI) form. Recently, the Texas Education Agency (TEA) proposed an amendment to the rule that would allow nurse practitioners and physician assistants to serve on the mandatory multidisciplinary team for a student, in turn allowing them to sign the OHI forms. TPA submitted comments, which you can view HERE, asking the agency to allow psychologists to serve on the team in lieu of a physician when the relevant condition is based on a mental-health diagnosis.

Texas Health and Human Services

Work with the Texas Health and Human Services Commission Behavioral Health Workforce Subcommittee on the Mental Health Loan Repayment Program. The subcommittee is working with the Texas Higher Education Coordinating Board to explore opportunities for alternative sustainable funding for the program. This includes diverting licensing fees from general revenue (mentioned earlier) to the program if the Legislature does not agree to further reduce fees in the 2024-25 state budget.

Federal Advocacy

Several of TPA’s members have been working with the American Psychological Association (APA) to address concerns with a bill by Congresswoman Lizzie Fletcher. Congresswoman Fletcher has introduced a bill that provides grants or incentive payments to physicians and primary health care practices that implement collaborative care models—which exclude psychologists. Our goal is to instead encourage integrated primary and behavioral health care. Those heavily involved in this advocacy effort include Drs. Stacey Ogbeide and Robin Burks.

If you haven’t read it yet, Drs. Ogbeide and Alex Young discuss the model in the latest issue of the Texas Psychologist.

Dr. Stagner has also been busy providing updates to the No Surprises Act for TPA members. This federal law requires that patients be given a good faith estimate of the cost of services. This law applies to all healthcare services, including psychological services.