



**TEXAS STATE BOARD OF EXAMINERS OF MARRIAGE AND FAMILY THERAPISTS**

Jennifer Smothermon, MA, LPC-S, LMFT-S  
Chair

Sarah Faszholz, MBA  
Interim Executive Director

Mail Code 1982  
P.O. Box 149347  
Austin, Texas 78714-9347  
(512) 834-6657  
FAX (512) 834-6677  
[mft@dshs.state.tx.us](mailto:mft@dshs.state.tx.us)

Kenneth Bateman, EdD, LPC-S, LMFT-S  
George Francis, MBA, Public Member  
Evelyn Husband-Thompson, Public Member  
Lisa Merchant, PhD, LMFT  
Michael Miller, JD, Public Member  
Keith Rosenbaum, PhD, LMFT  
Anthony Scoma, Public Member  
Richmond Stoglin, MPA, Dmin, LMFT

**Schedule of Sanctions with Aggravating and Mitigating Factors Policy**

The Texas State Board of Examiners of Marriage and Family Therapists (board) adopts this Schedule of Sanctions Policy — also known as Penalty Matrix — as depicted below to align with rules March 7, 2019. This policy becomes effective on the date of the board chair’s signature below.

*Jennifer Smothermon, MA, LPC-S, LMFT-S*  
Jennifer Smothermon, Chair

4/13/19  
Date

**Penalty Matrix**

Per board rules, found in Title 22 of the Texas Administrative Code, §801.296, regarding Complaint Procedures, the Complaint Review Team (team) determines

1. the timeliness and nature of the allegations in a complaint,
2. if the board has jurisdiction over a complaint, and
3. if a violation of the Act or board rules occurred.

If the team finds sufficient evidence to demonstrate a violation of the Act or board rules occurred, the team directs staff to issue a warning letter, conditional letter of agreement, or notice of violation proposing the action prescribed in this penalty matrix after consideration of any aggravating and mitigating factors. The team may propose a more severe action than the action listed in this penalty matrix based on an aggravating factor and a less severe action based on a mitigating factor.

Non-disciplinary Actions

- Warning Letter
- Conditional Letter of Agreement

Disciplinary Actions

(reported to National Practitioner Data Bank and posted to the board’s Enforcement Actions webpage)

- Level 5 Reprimand
- Level 4 Probated Suspension
- Level 2/3 Suspension
- Level 1 Revocation
- Administrative Penalty

The team proposes the next-severe action level in a case including a violation of a board order. For example, if a board order called for a Level 4 Probated Suspension and the case included a violation of that board order, the team proposed Level 2/3 Suspension.

## TSBEMFT Penalty Matrix

The following actions are for a single, first time violation with no mitigating or aggravating factors.

Rule	Action
801.43(a) Identify license, status, or other restriction	Warning
801.43(b) Make false statement	Level 5 Reprimand
801.43(e) Make reasonable effort to prevent other's false statement	Warning
801.44(a) Provide services only in the context of a professional relationship	Level 5 Reprimand
801.44(b) Fail to provide written information	Level 5 Reprimand
801.44(c) Fail to obtain appropriate consent or custody order	Level 5 Reprimand
801.44(d) Fail to provide written information regarding confidentiality	Level 5 Reprimand
801.44(e) Refer for pay	Level 3 Administrative Penalty
801.44(f) Exploit trust	Level 4 Probated Suspension
801.44(g) Act to meet personal needs	Level 4 Probated Suspension
801.44(h) Provide services to family, friends, educational or business associates, or others	Level 5 Reprimand
801.44(i) Maintain professional boundaries with client and former client	Level 5 Reprimand
801.44(k) Protect individual from harm resulting from a group interaction	Warning
801.44(l) Avoid non-therapeutic relationship	Conditional Letter of Agreement
801.44(m) Bill only for services actually rendered or as agreed in writing	Level 5 Reprimand
801.44(n) End professional relationship when client is not benefiting	Level 4 Probated Suspension
801.44(n) Provide written referral and facilitate transfer to appropriate care	Conditional Letter of Agreement
801.44(o) Technology-assisted service, provide license number and board's contact information	Warning
801.44(p) Provide services within competency and professional standards	Level 4 Probated Suspension
801.44(q) Base services on client assessment, evaluation, or diagnosis	Level 4 Probated Suspension
801.44(s) Promote or encourage the illegal use of alcohol or drugs	Level 1 Revocation
801.44(t) Provide services to client served by another	Level 5 Reprimand
801.44(u) Aid or abet or fail to report unlicensed practice	Level 2/3 Suspension
801.44(v) Enter a non-professional relationship with a client's family member or any person who has a personal or professional relationship with client	Level 5 Reprimand
801.45(b) Sexual contact with a protected person	Level 1 Revocation
801.45(c) Provide services to a former sexual partner	Level 1 Revocation
801.45(d) Therapeutic deception or sexual exploitation	Level 1 Revocation
801.46(a) Inform clients about testing as part of treatment	Warning
801.46(c) Administer and interpret test with appropriate training, experience	Level 4 Probated Suspension
801.47(1) Use alcohol or drugs, adversely affecting provision of services	Level 2/3 Suspension
801.47(2) Use any kind of illegal drugs	Level 2/3 Suspension
801.48(b) Disclose communication, record, or identity of a client	Level 4 Probated Suspension
801.48(c) Comply with statutes or rules, concerning confidential information	Level 4 Probated Suspension
801.48(d) Report or release information as required by statute	Level 4 Probated Suspension
801.48(d)(4) Report sexual misconduct per TCPRC 81.006	Level 5 Reprimand
801.48(e) Keep accurate records	Conditional Letter of Agreement
801.48(g) Maintain confidentiality in how client records are stored or disposed	Level 4 Probated Suspension
801.48(h) Plan for custody of records	Level 5 Reprimand
801.49(b) Reporting alleged violations and misrepresentation	Warning
801.49(c) Report name, mailing address within 30 days	Warning
801.49(e) Timely respond to board	Level 5 Reprimand
801.49(f) Submit documentation of MFT-related degree within 30 days	Warning
801.49(g) Written reports within 30 days of criminal, civil, or agency action	Level 5 Reprimand
801.50(b) Appropriate use of assumed name	Warning

## TSBEMFT Penalty Matrix

The following actions are for a single, first time violation with no mitigating or aggravating factors.

Rule	Action
801.51(a) Inform client of board's contact information via approved means	Warning
801.52(a) Display an original or true copy of license certificate and renewal card	Warning
801.52(b) Alter license certificate or renewal card	Level 2/3 Suspension
801.52(c) Display license certificate or renewal card that is altered, expired, suspended, or revoked	Warning
801.53(a) Advertise with false information	Level 5 Reprimand
801.53(d) Advertisement must state license title	Warning
801.53(e) Ad with confusing membership or certification outside field of therapy	Warning
801.53(f) Advertisement must state provisional license	Warning
801.55(e) Dual relationship: Provide MFT and parenting coordination services	Level 4 Probated Suspension
801.56(d) Dual relationship: Provide MFT and parenting facilitator services	Level 4 Probated Suspension
801.57(d) Dual relationship: Provide MFT and custody evaluation service	Level 4 Probated Suspension
801.57(e) Offer expert opinion related to child custody	Level 2/3 Suspension
801.57(f) Failure to inform client and proper informed consent	Level 5 Reprimand
801.57(g) Associate must not conduct child custody or adoption evaluations	Level 4 Probated Suspension
801.58(d) Required training for technology-assisted services	Level 5 Reprimand
801.58(h) Failure to inform client and proper informed consent	Level 5 Reprimand
801.58(i) Meet legal requirements of health information privacy and security	Level 4 Probated Suspension
801.143(b) Supervisor may not be employed by supervisee	Level 5 Reprimand
801.143(c) Supervisor may not be related to supervisee	Level 5 Reprimand
801.143(d) Supervisor must timely process and maintain Associate's file	Conditional Letter of Agreement
801.143(e) Supervisor must maintain record of each supervision conference and Associate's total number of hours	Conditional Letter of Agreement
801.143(f) Supervisor must submit written notice of supervision end in 30 days	Warning Letter
801.143(g)(1) Supervisor must ensure Associate adheres to all laws and rules	Warning
801.143(g)(2) Supervisor/Associate dual relationship	Level 5 Reprimand
801.143(g)(4) Supervisor must implement Associate's written remediation plan	Level 5 Reprimand
801.143(g)(5) Supervisor must timely submit accurate experience documents	Level 5 Reprimand
801.143(j) Supervisor fails to renew and continues to represent as a supervisor	Level 5 Reprimand
801.143(k) Supervisor with status other than "current, active" or after supervisor status is removed and continues to supervise	Level 4 Probated Suspension
801.143(l) Disciplined supervisor must inform all Associates of board action, refund fees, and assist Associates to find alternate supervision	Level 5 Reprimand
801.143(m) Supervision without being currently approved as a supervisor	Level 4 Probated Suspension
801.236(b) Act as therapist while on inactive status	Level 1 Revocation

**TSBEMFT Penalty Matrix**

Aggravating Factors:

- Culpability of licensee (intentional or premeditated, due to blatant disregard or gross neglect)
- Harm (physical, emotional, mental or economic) and severity thereof
- Increased potential for harm or risk to the public
- Prior written warnings from supervisor or governmental agency or official regarding standards of practice, statutes or regulations pertaining to the licensee's practice
- Prior misconduct of a similar or related nature
- Likelihood of future misconduct of a similar nature
- Violation of a board order
- Failure to implement remedial measures to correct issues arising from the misconduct
- Lack or rehabilitative potential
- Lack of remorse
- Motive
- Negative impact on client or former client, on profession
- Existence of addiction, such as alcohol, drugs, or pornography that diminish likelihood of rehabilitation
- Other: \_\_\_\_\_

Mitigating Factors:

- Resulted from simple error
- Self-reported
- Admission of wrong and acceptance of responsibility
- Appropriate degree of remorse or concern
- Good intent
- Rehabilitative potential
- Effort to ameliorate the harm, make restitution, or mitigate the violation
- Effort to ensure that future violation does not occur
- Before case review, voluntary completion of CEs in the area of the violation
- Cooperation with investigation or request for information
- Lack of experience at the time of violation
- Other: \_\_\_\_\_

**Board Attorney's Signature:** \_\_\_\_\_  
Jeffrey Bulloch