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AMFTRB

Association of Marital & Family Therapy Regulatory Boards

# Sanction Matrix Guidelines



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## Sanction Matrix Guidelines

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## I. Introduction

As regulators on a state licensing board, we are therapists, state board staff, attorneys, and public members involved in a legal process. Our roles as regulators require adjustments in our usual modes of thinking. For example, a therapist would shift from the advocacy of the field of MFT and focus on creating regulations that would protect the public as well as any additional missions defined by the mission statement of the regulatory board on which they serve.

As regulators, we hold the protection of the public over the professional's needs. Part of our responsibilities may include the complaint process in our own communities. This requires fair, equitable, and consistent application of that process regardless of location or knowledge of the professional. The following documents are to aid in that process.

Managing complaints against a licensee requires familiarity with the rules and statutes in each jurisdiction that may be applicable to the charge. We may need to become familiar with or seek legal advice regarding parts of the law outside of the LMFT statutes, including, for example, definitions of terminology, what constitutes a violation, and what sanctions are available.

The following documents are meant to be considered as a set of guidelines, framework, or scaffolding, for evaluation and determination of the appropriate response to particular complaints. The complaint list includes examples of past violations which have required disciplinary action in various jurisdictions.

The context of the complaint and the licensee's response may require "adjustments" as you consider each individual complaint. After all, we know that dysfunctional patterns are usually far more destructive than a single incident of potential rule violation. By examining the aggravating and mitigating circumstances, adjustments can be made as needed. These documents are intended to be used to assist and inform your jurisdiction's complaint process.

The Sanction Matrix Workgroup gratefully acknowledges and thanks the scholarly research work conducted and contributed by Pam Rollins, Ph.D., LMFT, Heath Grames, Ph.D., LMFT and their students at Mississippi State University and by Kendra Wood, MS, MFTC and Lois Paff Bergen, Ph.D., LMFT.



## II. Purpose

A strong enforcement process is well-published and easy for the public to access. It is based on a well-organized, open, transparent process. It operates in a timely manner and avoids the appearance of institutional bias by clearly defining misconduct and incompetence and maintaining internal consistency. A strong enforcement system protects the public, promotes deterrence and supports remediation.

The purpose of a Penalty Matrix is to create a benchmark for discipline that is fair, transparent, open, consistent, and free of real or perceived conflicts. While considering guidelines for a Penalty Matrix, we encourage member boards to consider the larger systemic issues that are related to occupational/professional regulation while adhering to the legal parameters of their jurisdiction. Rules and procedures related to complaints and enforcement must align with legal standards that may be found in a different section of state or federal law other than the board's practice/title act. Therefore, it is imperative for board members to have a working knowledge of the laws as they determine their complaints and enforcement processes. Board members are wise to consider how their procedures and rules meet common legal standards and to consider how their complaints and enforcement fit within the larger legal system.

## III. Prohibited Activities Categories from regulation and rule.

*(Appendix A)*

### A. General

1. Hold oneself out as a licensee; practiced when the license has expired, been suspended or revoked, on probation, or no license has been granted
2. Violated or attempted to violate any promulgated laws or rules, or special directions/board orders
3. Practiced outside the scope of their license, area of training, experience, supervised experience, specialization, or competence
4. Knowingly make misleading, deceptive, untrue or fraudulent representations as to skill or ability or in the practice of the profession
5. Used a title or description denoting that the person is a marriage and family therapist when not licensed professional
6. Exhibited Professional/gross incompetence
7. Exhibited Negligence in the practice of the profession
8. Acted or failed to act in a manner that does not meet the generally accepted standards of the professional discipline under which the person practices
9. Assisted/abetted others to violate laws/rules
10. Performed acts of corruption or dishonesty
11. Showed other just and sufficient cause which renders a person unfit to practice marriage and family therapy as promulgated by the rules of the board

### B. Advertising

1. Used advertising that is misleading, deceptive, or false
2. Failed to make certain that the qualifications of their employees and supervisees are represented in a manner that is true, accurate, and in accordance with applicable law
3. Advertised/offered to perform prohibited acts
4. Failed to include LMFT on all promotional material



Prohibited Activities  
Categories from  
regulation and rule.

5. Guaranteed that satisfaction or a cure will result from the performance of professional services
6. Made any claim relating to professional services/products/price therefore which cannot be substantiated by the licensee
7. Solicited testimonial endorsements from current clients or other persons who, because of particular circumstances, are vulnerable to undue influence
8. Advertised professional superiority or the performance of professional services in a superior manner
9. Compensated or gave anything of value to representatives of the media in anticipation of or in return for professional publicity in a news item
10. Offered bonuses or inducements in any form other than a discount or reduction in an established fee or price for a professional service or product
11. Used information about people involved in motor vehicle accidents which has been derived from accident reports made by law enforcement officers for the solicitation of the people involved in the accidents

### C. Insurance

1. Committed abuse/fraud of health insurance

### D. Research

1. Exhibited Unprofessional/unethical conduct relating to research
2. Failed to receive informed consent in regard to research procedures, risks, purpose, etc.
3. Failed to ensure that the published materials are accurate and factual; failed to publicly correct errors in their published research if discovered after the fact
4. Plagiarized or failed to cite persons to whom credit for original ideas or work is due
5. Failed to respect each research participant's freedom to decline participation in or to withdraw from a Research study at any time
6. Fabricated research results
7. Failed to observe safeguards to protect the rights of research participants
8. Failed to obtain appropriate approval prior to conducting the research
9. Failed to comply with existing federal and state laws and regulations concerning treatment of research subjects
10. Failed to make every effort to prevent the distortion or misuse of their clinical and research findings
11. Reproduced/described publicly, or published for general public distribution, any psychological test or other assessment device, the value of which depends in whole or in part on the naivete of the subject, in ways that might invalidate the test or device

### E. Professional Evaluations

1. Failed to uphold ethical standards in providing testimony in various contexts within the legal system as described by AAMFT and/or ACA
2. Failed to inform client about evaluation, assessment or other official report ordered by court and to inform the client of the parameters of the court order
3. Failed to only make recommendations to a court, attorney or other professional concerning a client



Prohibited Activities  
Categories from  
regulation and rule.

## F. Referrals

1. Accepted or offered referrals for the purpose of financial gain
2. Failed to refer a client to an appropriate practitioner when the problem of the client is beyond the person's training, experience, or competence, when asked to do so by the client, or when absent for an extended period of time
3. Used an institutional affiliation to solicit clients for the licensee's private practice
4. Requested or induced any client to solicit business on behalf of the therapist
5. Encouraged/ Promoted the practice of mental health service by untrained or unqualified persons

## G. Therapist Conditions

1. Practiced with a physical illness, physical condition (including deterioration through the aging process), or behavioral, mental health, or substance use disorder that affects the person's ability to treat clients with reasonable skill and safety or that may endanger the health or safety of persons under his or her care; failed to notify the board of these conditions
2. Found/adjudicated medically mentally incompetent by a court of competent jurisdiction within or without this state
3. Failed to recognize, seek intervention, and otherwise appropriately respond when one's own personal problems, psychosocial distress, or mental health difficulties interfere with or negatively impact professional judgment, professional performance and functioning, or the ability to act in the client's best interests
4. Provided services to a client when the therapist's objectivity or effectiveness was impaired
5. Failed to act within the limitations created by a physical illness, physical condition, or behavioral, mental health, or substance use disorder that renders the person unable to treat clients with reasonable skill and safety or that may endanger the health or safety of persons under his or her care

## H. Substances

1. Practiced while under the influence of alcohol or drugs not prescribed by a licensed physician; habitually or excessively uses or abuses alcohol, a habit-forming drug, or a controlled substance
2. Found in possession of, or attempting to obtain or possess a controlled substance without lawful authority; sold, prescribed, dispensed, or administered controlled substances;
3. Promoted or encouraged the illegal use of alcohol or drugs by a client

## I. Crimes

1. Convicted of a crime which the board determines to be of a nature as to render the person convicted unfit to practice marriage and family therapy
2. Convicted of or pled guilty to a felony or received a deferred sentence to a felony charge in current or previous jurisdictions; may have time limit
3. Convicted of a misdemeanor related to their qualifications or functions in current or previous jurisdiction
4. Engaged in conduct which could lead to conviction of a felony, or a misdemeanor related to their qualifications or functions
5. Failed to meet the requirements of the Criminal Background Check or failed to submit to a criminal history records check
6. Abused/ exploited a child or vulnerable adult; caused a child to be abused/neglected; currently listed on a child abuse registry or an adult protective services registry



Prohibited Activities  
Categories from  
regulation and rule.

## J. Supervision

1. Failed to render adequate professional supervision according to generally accepted standards of practice
2. Permitted supervisee to hold themselves out as competent to perform services beyond their level of education, training, or experience and that they are represented as such
3. Disclosed supervisee confidences except by written authorization or waiver, or when mandated or permitted by law
4. Failed to take reasonable measures to ensure that services provided by supervisees are professional
5. Failed to ensure that supervisees inform their clients that they are being supervised or conditionally licensed
6. Failed to make supervisees aware of legal and ethical standards of the profession of therapy as well as those standards established by the board
7. Failed to establish procedures with the supervisee for handling crisis situations
8. Acted as a supervisor without meeting the qualification requirements for that position that are defined by statute or rule
9. Failed to maintain regular, substantive and ongoing professional development in supervision
10. Failed to intervene when supervisees are impaired or incompetent and thus place the client(s) at risk
11. Regarding a supervisee that has more than one supervisor, failed to communicate regularly about the shared supervisee's performance
12. Provided clinical supervision to persons holding a provisional license who have no intention of becoming fully licensed; or aided persons in obtaining a provisional license who have no intention of becoming fully licensed
13. Supervised a provisional licensee or a certificate holder without a board approved supervision agreement

## K. Professional Competency

1. Failed to pursue knowledge of new developments and maintain their competence in marriage and family therapy through education, training, and/or supervised experience
2. Failed to pursue appropriate consultation and training to ensure adequate knowledge of and adherence to applicable laws, ethics, and professional standards or regarding issues that may impair work performance or clinical judgment
3. Failed to obtain education about and seek to understand the nature of multicultural and social diversity and to demonstrate multicultural diversity
4. As teacher or supervisor, failed to maintain high standards of scholarship and presenting information that is accurate

## L. Public Statements

1. Failed to correct others who misrepresent a therapist's professional qualifications or affiliations
2. Failed to exercise special care when making public their professional recommendations and opinions through testimony or other public statements
3. Failed to use a complete title in professional activity



Prohibited Activities  
Categories from  
regulation and rule.

## M. Relationship

### 4. Sexual Contact/Intimacy

- a. Engaged in sexual contact/intimacy with current client
- b. Engaged in sexual contact/intimacy with former clients up to prescribed time period dictated by jurisdiction
- c. Engaged in sexual contact/intimacy with known members of a current/former client's family system, or significant other up to prescribed time period dictated by jurisdiction
- d. Provided clinical services to an individual with whom the marriage and family therapist has had a prior sexual relationship
- e. Engaged in sexual contact/intimacy with students, supervisees, or research subjects
- f. Abused or harassed, sexually or otherwise, a client, student, supervisee, or trainee; aiding/abetting others to do so
- g. Failed to report information about sexual contact/intimacy of clients with former psychotherapists
- h. Treated any client, student, or supervisee in a lewd/cruel manner

### 5. Therapeutic Relationships

- a. Engaged in exploitive dual or multiple relationships with clients or supervisees
- b. Exercised undue influence on the client; exploited a client, former client or supervisee
- c. Accepted gifts that may potentially affect the therapeutic relationship
- d. Used any confidence of a client to the client's disadvantage
- e. Failed to respect the dignity and right to privacy of a client and promote their welfare
- f. Failed to set and maintain professional boundaries with clients, former clients, interns and persons with whom he or she works
- g. Fostered dependent therapy relationships
- h. Entered into nonprofessional relationships with clients or former clients, their romantic partners, or their family members when the interaction is potentially harmful to the client
- i. Engaged in activities resulting in personal gain based upon information accessible solely as a result of the confidential relationship, regardless of the absence of harm or detriment to the client
- j. Engaged in a personal virtual relationship with individuals with whom they have a current therapeutic relationship (e.g., through social and other me

### 6. Professional Relationships

- a. Took credit for work not personally performed, whether by giving inaccurate information or failing to give accurate information
- b. Engaged in a professional conflict of interest
- c. Failed to inform other professional persons concurrently providing mental health services to a client; knowingly offered services to a client who is in treatment with another professional without consultation
- d. Betrayal of a professional confidence
- e. Solicited the clients of colleagues or assumed professional responsibility for clients of another agency or colleague without appropriate communication with that agency or colleague
- f. Disparaged the qualifications of any colleague





Prohibited Activities  
Categories from  
regulation and rule.

- g. Engaged in criticism of colleagues in communications with clients or with other professionals
- h. Took advantage of a dispute between a colleague and an employer to obtain a position or otherwise advance their own interest

## N. Therapy Practices

### 1. General

- a. Violated ethical or moral standards during professional services; aiding/abetting others to do so
- b. Practiced inhumane or discriminatory treatment toward any person or group of persons
- c. Engaged in the practice of marriage and family therapy in a manner that is harmful or dangerous to a client, research subject, or to the public
- d. Performed services in disregard of the best interests of a client or the public
- e. Engaged in any action that violates or diminishes the civil or legal rights of clients

### 2. Therapeutic Contract

- a. Failed to obtain appropriate informed consent to therapy or related procedures and policies (contractual obligations, limitations, benefits/risks, purposes, goals, techniques) in understandable language; includes cases of newly developing area/technique
- b. Failed to obtain written, informed consent from each client before electronically recording sessions with that client or before permitting third party observation of their sessions
- c. Failed to inform clients of the limits of confidentiality
- d. Failed to comply with confidential agreement limitations except as provided by law and rule and third-party agreement
- e. Failed to comply with any of the requirements of mandatory disclosure of information to clients pursuant to listed laws (mandated reporting)
- f. Failed to provide clients with information about their rights and responsibilities and how to file a patient complaint or make a report
- g. Failed to inform the client of any contractual obligations, limitations, established risks, or requirements resulting from an agreement between the licensee and a third-party payer which could influence the course of the client's treatment
- h. Failed to provide full information about provider's knowledge, skills, experience and credentials
- i. Failed to file a professional disclosure statement or has filed a false, incomplete or misleading professional disclosure statement
- j. Failed to provide information regarding the provision(s) for emergency coverage
- k. Failed to jointly create therapy plans with client and regularly review and revise therapy plans
- l. Failed to develop written practice procedures in regard to social media and digital technology



Prohibited Activities  
Categories from  
regulation and rule.

### 3. Therapeutic Techniques/Services

- a. Failed to respect the rights of clients to make decisions and help them to understand the consequences of these decisions
- b. Engaged treatment that is contrary to the generally accepted standards of the person's practice or is demonstrably unnecessary
- c. Performed any treatment/therapy that would constitute experimentation on human subjects, without first obtaining full, informed, and written consent
- d. Engaged in conversion therapy with a client who is under eighteen years of age; referred a child to a provider in another jurisdiction to receive conversion therapy
- e. Used inappropriate test instruments or assessment techniques
- f. Failed to have sensitive regard for the moral, social, cultural, and religious beliefs of clients and communities, or imposed the licensee's or registrant's beliefs or stereotypes on clients
- g. Failed to inform a client of a divergence of interests, values, attitudes, or biases between a client and the therapist that is sufficient to impair their professional relationship
- h. Claimed or used any secret or special method of treatment and/or diagnostic technique which the licensee refuses to divulge to the Board
- i. Knowingly withheld information about accepted and prevailing treatment alternatives that differ from those provided by the licensee
- j. Failed to use techniques/procedures/modalities that are grounded in theory
- k. Failed to base all services on an assessment, evaluation, or diagnosis of the client and evaluate a client's progress on a continuing basis to guide service delivery
- l. Provided therapy in an inappropriate environment for professional services (setting with risk of harm or exploitation, where privacy cannot be assured) unless therapy in such circumstances is clinically indicated and documented in clinical notes
- m. Promoted for personal gain an unnecessary drug, device, treatment, procedure, or service
- n. Failed to give a truthful, understandable, and appropriate account of the nature of the client's condition to the client or to those responsible for the care of the client
- o. Used invasive procedures as a treatment, therapy, or professional service in the practice of his or her profession
- p. Used/recommended rebirthing or similar therapy technique
- q. Willfully planted in the mind of the patient suggestions that are not based in facts known to the practitioner
- r. Promoted suicide
- s. Failed to exercise independent professional judgment in the performance of licensed activities
- t. Prescribed or administered drugs as a treatment, therapy, or professional service in the practice of his or her profession
- u. Provided any mental health service for such illness on a continuous and sustained basis without a medical evaluation of the illness by, and consultation with, a physician regarding such illness (such as schizophrenia, schizoaffective disorder, bipolar disorder, major depressive disorder, panic disorder, obsessive-compulsive disorder, attention-deficit hyperactivity disorder and autism)



Prohibited Activities  
Categories from  
regulation and rule.

- v. Failed to enlist supportive network involvement with client consent when appropriate

#### **4. Therapy with Multiple Clients**

- a. Failed to respect individual client rights, limits of confidentiality, or maintain objectivity
- b. Failed to clarify, adjust or withdraw from roles when conflict arises in the therapy relationship
- c. Failed to recognize the need for a screening process for prospective group therapy participants
- d. Failed to maintain awareness of each of the group members' welfare through the group process

#### **5. Client Records**

- a. Failed to maintain, store and dispose of records as prescribed by laws/rules
- b. Failed to make client records in the licensee's possession promptly available to the client, other professional,
- c. Or justified parties; withholding records for non-payment
- d. Falsified or repeatedly made incorrect essential entries or repeatedly failed to make essential entries on patient records
- e. Failed to have a written plan in place for management of clinical records in case of his or her death or incapacitation
- f. Disclosed records of a client's diagnosis, prognosis or treatment relating to substance abuse or HIV infection
- g. Failed to notify patients or clients how to obtain their records when a practice closes

#### **6. Termination**

- a. Failed to terminate a relationship with a client and refer them when it was reasonably clear that the client was not benefitting from the relationship and is not likely to gain such benefit in the future
- b. Terminated behavioral health services to a client without making an appropriate referral (client abandonment)
- c. Failed to notify the client promptly when one anticipates terminating or interrupting service to the client

#### **7. Financial Arrangements**

- a. Failed to clearly disclose and explain to clients and supervisees all financial arrangements and fees related to professional services, the use of collection agencies or legal measures for nonpayment, and the procedure for obtaining payment from the client, to the extent allowed by law, if payment is denied by the third-party payor
- b. Charged excessive or unreasonable fees or engaging in unreasonable collection practices
- c. Accepted goods, services or other noncash remuneration from clients in return for therapy services (bartering)
- d. Failed to represent facts truthfully to clients, third-party payors, and supervisees regarding services rendered
- e. Engaged in any action for nonpayment of fees without first advising the client of the intended action and providing the client with an opportunity to settle the debt



Prohibited Activities  
Categories from  
regulation and rule.

- f. Obtained a fee by fraud, deceit or misrepresentation; aided/abetted others to do so
  - g. Permitted any person to share in the fees for professional services, other than a partner, an employee, an associate in a professional firm, or a consultant authorized to practice marriage and family therapy
  - h. Entered into, or attempted to enter into, a financial relationship with the client that is unrelated to the practice of marriage and family therapy
  - i. Allowed individual or agency that is paying for the professional services of a client to exert undue influence over the therapist's evaluation or treatment of the client
  - j. Solicited a private fee or other remuneration for providing services to clients who are entitled to such available services through therapist's employer or agency
  - k. A practitioner who is a participating provider of a health maintenance organization has knowingly collected or attempted to collect from a subscriber or enrollee of the health maintenance organization any sums that are owed by the health maintenance organization
- 8. Technology Assisted Services**
- a. Failed to meet telehealth standards
  - b. Utilized technology assisted services without appropriate education, training, or supervised experience using the relevant technology
  - c. Failed to ensure technology assisted services are compliant with all relevant laws for the delivery of such services
  - d. Utilized inappropriate technology assisted services with clients/supervisees
  - e. Failed to receive informed consent for technology assisted services with clients and supervisees, including potential risks and benefits
  - f. Failed to ensure the security of their communication medium
  - g. Failure to ensure that all documentation containing identifying or otherwise sensitive information which is electronically stored and/or transferred adheres to standards of best practice and applicable laws
  - h. Used technologically assisted means for practicing outside of their allowed jurisdictions
  - i. Failed to identify an appropriately trained professional who can provide local assistance, including crisis intervention, if needed when providing technology assisted services
- 9. Other**
- a. Failed to disguise adequately the identity of a client for purposes of training or research or other non-clinical activities, or consultation
  - b. Failed to comply with universal precautions for preventing transmission of infectious diseases
  - c. Knowingly participated in the child's removal or precipitated others to remove a child from the child's home without the consent of the child's parent, guardian, or custodian
  - d. Took/attempted to take or sent intoxicating beverages, controlled substances, or firearms to any hospital providing mental health services
  - e. Failed to wear an identifying badge, which shall be conspicuously displayed, when by dictated by law
  - f. Failed to provide and maintain reasonable sanitary facilities



Prohibited Activities  
Categories from  
regulation and rule.

## O. Administrative/Board Communication

### 1. Board Communications

- a. Failed to report information that would cause a reasonable licensee to believe that another licensee is guilty of unprofessional, unethical conduct or is physically or mentally unable to provide behavioral health services competently or safely or practicing without a license; maintaining an association with said person
- b. Failed to cooperate with an investigation conducted by the disciplining authority; failed to comply with a subpoena issued by the Board
- c. Failed to respond, in the manner required by the board, to a complaint filed with or by the board against the licensee
- d. Failed to cooperate with the AAMFT at any point from the inception of an ethical complaint through the completion of all proceedings regarding that complaint
- e. Made a material misstatement in furnishing information to the Department or has willfully concealed material information from the Board
- f. Falsified a report or complaint
- g. Failed to report to the board any disciplinary action taken by another licensing entity or authority of this state or of another state or an agency of the federal government or the United States military
- h. Failed to report to the Board a change of name, email, or address within prescribed timeline
- i. Failed to report to the board a felony or misdemeanor or arrests/crimes within prescribed timeline
- j. Failed to disclose to the board and its agents' papers, documents, records, as required by law and rule
- k. Refusal of an applicant for a license and/or certificate or of a licensee and/or certificate holder to submit to a physical or mental examination request by the Board
- l. Failed to notify the board of any judgment or settlement of a malpractice claim or action within prescribed timeline
- m. Misrepresented a fact during investigation or disciplinary proceedings
- n. Failed to report to the Board an email address and/or principal business address to which all official board communications should be directed or addresses where the licensee is practicing
- o. Willfully impeding or obstructing of other to file report required by law, or inducing another person to do so
- p. Failed to report any civil lawsuit brought against the licensee or applicant's that relates in any way to the licensee or applicant's professional conduct within the prescribed timeline
- q. Failed to respond to a board or department audit
- r. Failed to report any unprofessional conduct that the licensee has committed
- s. Failed to report any voluntary agreements restricting the practice of the profession in another state, district, territory or country
- t. Initiated, participated in, or encouraged the filing of ethics complaints that are unwarranted or intended to harm a therapist rather than to protect clients or the public
- u. Violated the terms of impaired practitioner contract



Prohibited Activities  
Categories from  
regulation and rule.

- v. Offered/gave/promised anything of value/benefit to a federal, state, or local government employee/official for the purpose of influencing them to circumvent a law/rule/ordinance governing the licensee's profession or occupation

## **2. Administrative**

- a. Failed to complete professional or continuing education requirements in defined time period
- b. Failed to pay renewal fees in timely manner

## **3. License and Examinations**

- a. Engaged in fraud, misrepresentation, or deception in applying for/securing/renewing licensure, for continuing education, or taking any examination provided for in listed laws
- b. Sanctioned for prior disciplinary action relating to a license to practice a profession by other regulatory bodies, such as denial or revocation of licensure by a board, in related occupation in any other state, territory, or country
- c. Aided/abetted a person who is not licensed pursuant to this chapter to purport to be a licensed behavioral health professional in this state
- d. Permitted another person to use the license for any purpose; sold license
- e. Advertised, practiced, or attempted to practice under a name other than one's own; false or assumed name
- f. Did not display license in location where services are conducted
- g. Secured/attempted to secure the issuance or renewal of a license by knowingly taking advantage of the mistake of another person or the board

## **4. Costs**

- a. Failed to pay costs assessed in any disciplinary action
- b. Failed to pay court-ordered child support
- c. Failed to pay certain student loans
- d. Failed to pay restitution to persons harmed
- e. Failed to remit the sum owed to the state for any overpayment from the Medicaid program pursuant to a final order, judgment, or stipulation or settlement
- f. Misappropriated property or funds from a client or workplace or failing to comply with a board rule regarding the accounting and distribution of a client's property or funds
- g. Charged with tax delinquency

*In Appendix B, the most common violation categories as identified by research data can be found in a concise categories form.*



## IV. Sanction Categories

When a licensee has committed a violation, three general factors combine to determine the appropriate sanction which include: the culpability of the licensee; the harm caused or posed; and the requisite deterrence. Specific factors that should be considered include:

- A. The seriousness of the violation, including the nature of the harm posed to the health, safety and welfare of the public; the extent of the harm or risk posed; the frequency and time periods covered by the violation (single/multiple and how much time).
- B. The nature of the violation, including the relationship between the licensee and the person harmed or exposed to harm; the vulnerability of the person harmed or exposed to harm; the degree of culpability of the licensee (intentional, premeditated, due to blatant disregard or gross neglect, or resulted from simple error); and the extent to which the violation evidences lack of character, such as lack of trustworthiness, integrity or honesty.
- C. Personal accountability, as evidenced by admission of wrong or acceptance of responsibility, remorse or concern, efforts to ameliorate the harm or make restitution, efforts to ensure similar violations do not occur in the future, and cooperation with the investigation.
- D. Deterrence, including sanction required to deter future similar violation by the licensee; sanctions necessary to ensure compliance with rules/statutes; sanctions necessary to deter other licensees from the same violation.
- E. Miscellaneous factors may include age and experience at the time of the violation, presence or absence of prior or subsequent violations, conduct and work activity before and after the violation, character references, any other factors justice may require.

It is incumbent upon the board to consider the above factors when developing a sanction guide or Schedule of Sanctions that is based on severity levels. Many boards already have guidance in rule or statute to develop such measures/guidelines. The Penalty Matrix is based on the board's Schedule of Sanctions, basically listing rules that could be violated, considering each through the Schedule of Sanctions and determining the consequence (whether Disciplinary or Non-Disciplinary Action) based on the relevant factors and the Schedule of Sanctions.

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

### A. Informal Sanctions

1. Confidential or public letters of concern issued
2. Reprimands
3. Citations
4. Warnings to licensees

### B. Formal Sanctions

#### 1. Limitations/Requirements

- a. The imposition of restrictions/limitations upon the nature of the clinician's practice
- b. Participation in therapy, or course of training, or in education or an examination
- c. Review or supervision of clinician's practice



## Sanction Categories

- d. Submission to examinations to determine physical/mental condition or professional capabilities like submitting to drug/alcohol screens or an impaired practitioner/rehab program.
- 2. Fines: Civil, Administrative, Other**
- a. Ranging from \$100–\$50,000
  - b. Most commonly listed fine is “of not to exceed \$1,000 per violation/per day/total”
  - c. Average of around \$5000 for a fine
  - d. Investigation, hearing, and/or court costs
  - e. Restitution be made to an injured property owner, bills on behalf of patient or third party
  - f. Reasonable attorney fees
  - g. Refund of costs and fees billed to and collected from a consumer
- 3. License Status**
- a. Issue cease and desist orders and/or court ordered injunctions to enjoin a licensee or someone practicing without a license from practicing the profession for which the person is licensed or claiming to be licensed.
  - b. Probationary status
  - c. Deny, revoke, suspend a license
- 4. Legal**
- a. Misdemeanor
  - b. Felony
  - c. Imprisonment in the county jail for a prescribed time
  - d. State regulatory barriers to licensure due to felony convictions

*In Appendix D an example of the Texas Matrix Ranking 1-5 can be found.*





## V. Aggravating and Mitigating Circumstances Categories

### A. Factors Related to Unprofessional Conduct

1. Pattern of misconduct
2. The nature and severity of the misconduct
3. The danger and damages to the client or public
4. Whether the conduct was intentional, deliberate, or negligent
5. Dishonest or self-serving motives

### B. Factors Related to the License Holder

1. Where the practitioner is in the licensing process
2. Fitness review for associates/interns/candidates/those in the process of becoming fully licensed
3. Prior disciplinary offenses or absence of, including warnings
4. The length of time the licensee has practiced
5. What roles the practitioner has, holds
6. What authority the practitioner has
7. Context in which practitioner works, specifically working with additional systems like the court, an agency, schools, etc.

### C. Factors Related to Disciplinary Process

1. Whether remedial action has been taken
2. Conduct and cooperation of the individual during the course of the disciplinary proceedings
3. Full and voluntary admissions of misconduct to the Board
4. Submission of false evidence/statements, or other deceptive practices during the investigative or disciplinary process
5. Adverse impact of misconduct on others, or absence of

### D. General Factors

1. Any other factors as justice may require
2. Deterrent effect on the licensee or others from committing a similar crime again
3. Whether the offender has been rehabilitated or exhibits rehabilitative potential; the results of previous attempts for rehabilitation

### E. Specific Aggravating Factors:

1. Culpability of licensee (intentional or premeditated, due to blatant disregard or gross neglect)
2. Harm (physical, emotional, mental or economic) and severity thereof
3. Increased potential for harm or risk to the public
4. Prior written warnings from supervisor or governmental agency or official regarding standards of practice, statutes or regulations pertaining to the licensee's practice
5. Prior misconduct of a similar or related nature
6. Likelihood of future misconduct of a similar nature
7. Violation of a board order
8. Failure to implement remedial measures to correct issues arising from the misconduct
9. Lack of rehabilitative potential
10. Lack of remorse
11. Motive
12. Negative impact on client or former client, on profession



Aggravating  
and Mitigating  
Circumstances  
Categories

13. Existence of addiction, such as alcohol, drugs, or pornography that diminish the likelihood of rehabilitation
14. Licensee holds position(s) of authority, influence, and/or power within the profession, e.g. supervisors, Therapist- educators, public speakers, authors, those holding national or state offices, etc.
15. Licensee has practiced a sufficient amount of time to be aware of the harm their actions would cause clients and/or the Profession
16. Pre-occurring discipline from another Regulatory Board
17. Pre-occurring prosecution from another agency, e.g. Medicaid fraud
18. Other

**F. Specific Mitigating Factors**

1. Resulted from simple error
2. Self-reported
3. Admission of wrong and acceptance of responsibility
4. Appropriate degree of remorse or concern
5. Good intent
6. Rehabilitative potential
7. Effort to ameliorate the harm, make restitution, or mitigate the violation
8. Effort to ensure that future violation does not occur
9. Before case review, voluntary completion of CE's in the area of the violation
10. Cooperation with investigation or request for information
11. Lack of experience at the time of violation
12. Other



# Association of Marital and Family Therapy Regulatory Boards

## *Guidelines for Model Regulation*

The Association of Marital and Family Therapy Regulatory Boards developed this Model Sanction Matrix Regulation for use by its member boards in promulgating regulations concerning sanctions and disciplinary actions for LMFTs. It is believed that adoption of a common regulation by AMFTRB's member boards will facilitate the harmonization of the sanctioning and disciplinary practice across jurisdictions.

First draft May 2020; revised August 2020

Adopted by AMFTRB Board of Directors and State Delegates

AMFTRB would like to recognize the exceptional and dedicated work of the Sanction Matrix Workgroup Members.

Mary Guth (South Dakota) and Jennifer Smothermon (Texas), Co-Chairs

Eric Ashmore (Oklahoma)

Suzanne Casey (Arkansas)

Herb Grant (Minnesota)

Larry Giese (North Dakota)

David Norton (Illinois)

Pamela Rollins (Mississippi)

Joanni Sailor (Oklahoma)

Steve T. Peluso (New York)

Lois Paff Bergen



## Appendix A

### Prohibited Activities for LMFTs and Related Sanctions by Jurisdiction

Review of the laws and rules for all 52 jurisdictions

- Prohibited activities for LMFTs
- Sanctions for those found guilty of those violations
- Mitigating and aggravating circumstances for sanction decision-making
- Information listed in the Prohibited Activities for LMFTs by Jurisdiction spreadsheet and this presentation reflect laws and rules that explicitly state that the listed activities are prohibited or will incur disciplinary action if engaged in. This information is not a comprehensive list of every law/rule listed in jurisdictions' laws/rules, requirements for licensure, or listed standards of practice.
- Researcher used discretion when combining some prohibited activities together in the spreadsheet or leaving out a prohibited activity if she felt that it was adequately represented by another listed prohibited activity.
- Wording in laws and rules accounts for labels, not the intended nature or meaning.
- Every effort was made to provide a comprehensive and accurate report. The high volume of legal material available may effect accuracy.

*Please refer to the Excel Chart on the AMFTRB website: <https://amftrb.org/asdfasdfsdf.xls>*



## Appendix B

*Most Common Violation Categories as identified by research data in a concise categories form.*

### A. Boundary Violations

#### 1. Nonsexual

- a. Promote or encourage the illegal practices of alcohol or drugs
- b. Therapeutic Relationships
- c. Professional Relationships
- d. Therapy Practices
- e. General

#### 2. Sexual

- a. Sexual contact with a protected person
- b. Provide services to a former sexual partner
- c. Therapeutic deception or sexual exploitation
- d. Sexual Contact/Intimacy Relationships

### B. Confidentiality

1. Therapy Practices: General, Therapeutic Contract, Therapeutic Techniques/ Services
2. Therapy with multiple clients

### C. Business

1. Fraudulent Billing
2. Record Keeping
3. Practicing Without A License
4. Refer for pay
5. Financial Arrangements
6. Accepting gifts when it will potentially affect the therapeutic relationship
7. Client Records
8. Advertising
9. Insurance
10. Public Statements
11. Therapeutic Contract
12. Referrals

### D. Impairment

1. Use alcohol or drugs, adversely affecting provision of services
2. Use any kind of illegal drugs
3. Therapist Condition
4. Substances
5. Crime

### E. Competency

### F. Technology Assisted Services

1. Professional Competency
2. Public Statements



## Appendix B

### **G. Standards of Care/Practice**

1. Operating outside area of standard practice
2. Operating outside of scope of practice and competency
3. Providing custody evaluation for client
4. Offer expert opinion related to child custody
5. Practicing outside jurisdiction
6. Therapeutic Contract
7. Termination
8. Advertising
9. Therapy with multiple clients
10. Therapeutic Techniques/Service
11. Therapy Practices – General
12. Professional Evaluations
13. General

### **H. Administrative**

1. Aiding or Abetting Unlicensed Practice
2. Act as therapist while on inactive status
3. Aid or abet or fail to report unlicensed practice
4. Alter license certificate or renewal card
5. License and Examination
6. Administrative/Board Communications
7. Costs

### **I. Supervision**

### **J. Research**



## APPENDIX C

### Report to the Association for Marital and Family Therapy Regulatory Boards

Disciplinary Matrix Committee

State Regulatory Boards Disciplinary Data 2008-2018

Pamela Rollins, Ph.D., LMFT and Heath Grames, Ph.D., LMFT

### Data Source

Data were collected from the state licensure board websites of 36 states focusing on the years 2008-2018. Source data included consent agreements, final orders, or other legal documentation of disciplinary actions publicly posted (91.5%), posted summaries of violations and sanctions (7.5%), and open records request summaries (1%). These documents yielded a total of 1,241 cases with 889 occurring in California and 352 occurring in the balance of the states. For most cases, there were more than one violation listed and multiple sanctions imposed.

### Sanctioned Marriage and Family Therapist Characteristics

| Characteristic                                 | (N = 1,241) | %    |
|--|-------------|------|
| Gender   |             |      |
| Female   | 787         | 63.4 |
| Male   | 454         | 36.6 |
| License Type                                   |             |      |
| LMFT   | 831         | 67   |
| Provisional License (LMFTA, LMFTI, LAMFT, MFT) | 368         | 29.7 |
| Applicant or unlicensed                        | 40          | 3.2  |
| Temporary                                      | 2           | .2   |
| Number of Years Practiced                      |             |      |
| 0 (applicant or unlicensed)                    | 75          | 6.9  |
| 0-1  | 148         | 11.9 |
| 2-5  | 338         | 27.2 |
| 6-10   | 209         | 16.8 |
| 11-20  | 186         | 15   |
| 21-30  | 122         | 9.8  |
| 31-40  | 69          | 5.6  |
| 41-50  | 10          | .8   |
| 51-60  | 3           | .2   |
| Unknown/Missing                                | 156         | 12.6 |



We were only able to identify the practice setting in 144 (11.6%) of the total cases, with the majority of those being in private practice (49.3%) or community mental health (20.8%).

### Practice Type (N=144)

| Category                               | Number | %    |
|--|--------|------|
| Private Practice                       | 71     | 49.3 |
| Community Mental Health                | 30     | 20.8 |
| Private Counseling Center              | 9      | 6.3  |
| Addictions Facility                    | 7      | 4.9  |
| Group Home/Residential                 | 7      | 4.9  |
| Behavioral Health Unit                 | 5      | 3.5  |
| Hospital                               | 5      | 3.5  |
| Govt. Agency (County, State, etc.)     | 3      | 2.1  |
| Sexual Addiction Facility              | 3      | 2.1  |
| Spiritual/Religious Treatment Facility | 2      | 1.4  |
| Private Adoption Agency                | 1      | .07  |
| University Counseling Center           | 1      | .07  |

Since 71.6% of the cases were from one state, the data are separated into two groups – violations and sanctions occurring in California and violations and sanctions occurring in the other 35 jurisdictions. Please note that, in most cases, the licensee was found guilty of committing more than one violation, therefore the data below represents violations, not individual cases. For the total 1,241 cases, there were 2,609 violations. In addition, regulatory boards generally impose several sanctions against a practitioner’s license in response to adjudicated violations with various aims, including remediation, deterrence, and public protection. For the 1,241 cases, there were 4,527 sanctions. The most common sanctions listed below do not represent the only sanction levied, but the most common ones included in the overall response to the violation. Only three sanctions per violation are listed because the level of correlation decreased significantly after this point.

### Most Common Violations (without California)

| Cases (N = 352)   | Total Offenses | %    |
|---|----------------|------|
| Non-Sexual Multiple Relationships                       | 48             | 13.6 |
| Failure to meet CEU requirements                        | 45             | 12.8 |
| Sexual Multiple Relationships or Misconduct             | 44             | 12.5 |
| Unlicensed practice or practicing w/an expired licensed | 38             | 10.8 |
| Misrepresentation on license paperwork                  | 29             | 8.2  |
| Failure to keep adequate records                        | 29             | 8.2  |
| Breach of confidentiality                               | 26             | 7.4  |
| Billing fraud   | 21             | 6    |
| Incompetency or neglect                                 | 20             | 5.7  |
| Alcohol or drug related impairment                      | 17             | 4.8  |
| Misrepresenting credentials                             | 17             | 4.8  |



## Ten Most Common Violations (without California) and most common sanctions

| Cases (N = 352)   | Sanction 1  | Sanction 2   | Sanction 3   |
|---|---|--|--|
| Non-Sexual Multiple Relationships                       | CEUs<br>N=15  | Probation<br>N=13  | Voluntary relinquishment<br>N=11   |
| Failure to meet CEU requirements                        | Fine<br>N=40  | CEUs<br>N=37   | Pay court costs<br>N=5   |
| Sexual Multiple Relationships or Misconduct             | Voluntary relinquishment<br>N=14                      | License revoked<br>N=12  | Pay court costs<br>N=11  |
| Unlicensed practice or practicing w/an expired licensed | Fine<br>N=17  | Reprimand, Letter of Admonition<br>N=12  | Cease and Desist<br>N=6  |
| Misrepresentation on license paperwork                  | CEUs<br>N=9<br>Fine<br>N=9                            | Voluntary relinquishment<br>N=5<br>Reprimand/Letter of Admonition<br>N=5<br>Pay Court Costs<br>N=5<br>Supervision<br>N=5 | Application denied<br>N=4  |
| Failure to keep adequate records                        | CEUs<br>N=9<br>Probation<br>N=9                       | Supervision<br>N=8   | Reprimand, letter of admonition<br>N=7   |
| Breach of confidentiality                               | CEUs<br>N=8<br>Reprimand, letter of admonition<br>N=8 | Pay court costs<br>N=6<br>Supervision<br>N=6<br>License revoked<br>N=6   | Probation<br>N=4   |
| Billing fraud   | CEUs<br>N=7   | License revoked<br>N=5<br>Probation<br>N=5<br>Supervision<br>N=5   | Voluntary relinquishment<br>N=4<br>Fine<br>N=4   |
| Incompetency or neglect                                 | CEUs<br>N=8   | Supervision<br>N=6   | Suspended<br>N=4   |
| Alcohol or drug related impairment*                     | Probation<br>N=5                                      | Impaired practitioner program or rehab<br>N=4  | License revoked<br>N=3<br>Stayed suspension<br>N=3<br>Attend psycho-ed or support group<br>N=3<br>Supervision<br>N=3 |
| Misrepresenting credentials*                            | Reprimand, Letter of Admonition<br>N=7                | Fine<br>N=5  | Stayed suspension<br>N=3<br>Progress reports, proof of compliance, or reaction paper to board<br>N=3                 |

\*tied for 10th place



Appendix C

## License Type

| License Type                                   | # of professionals | %    |
|--|--------------------|------|
| LMFT   | 300                | 85.2 |
| Provisional license (LAMFT, LMFTA, LMFTI, MFT) | 38                 | 10.8 |
| Applicant or unlicensed                        | 12                 | 3.4  |
| Temporary                                      | 2                  | .6   |

Below are the data for California. Like other state regulatory boards, California routinely charges an adjudicated licensee with more than one violation, so the data below also represent violations, not individual cases. A single licensee would more than likely be charged with several violations stemming from a single incident. Data for California were from 889 cases that included 2069 violations and 3,972 sanctions. In addition, since California is one state, there is a great deal of consistency in the sanctions levied, so much so that significant correlations were found for a fourth and, in some cases, fifth sanction for some violations.

### Ten Most Common Violations (California)

| Cases (N = 889)  | Total Offenses | %    |
|--|----------------|------|
| Committed or arrested for a misdemeanor  | 322            | 36.2 |
| Impairment – DUI or Substance Abuse  | 281            | 31.6 |
| Unprofessional Conduct   | 261            | 29.4 |
| Misrepresentation on licensure application or renewal                            | 209            | 23.5 |
| Failure to meet CEU requirements   | 181            | 20.4 |
| Failure to meet minimum standards (incompetency)                                 | 108            | 12.1 |
| Billing fraud or other fraudulent practices                                      | 92             | 10.3 |
| Committed or arrested for a felony   | 81             | 9.1  |
| Failure to comply with terms of consent agreement                                | 71             | 8    |
| Sexual dual relationship, sexual misconduct, or sexually inappropriate behaviors | 60             | 6.7  |

## Ten Most Common Violations with Sanctions (California)

| Cases (N = 889)                                       | Sanction 1                                    | Sanction 2                      | Sanction 3   | Sanction 4 (and five)*   |
|---|---|---------------------------------|--|--|
| Committed or arrested for a misdemeanor               | Stayed revocation<br>N=285                    | Pay court costs<br>N=241        | Present consent order to employer, clients and/or referral source<br>N=191                     | Restricted from providing supervision<br>N=189<br>Probation<br>N=187 |
| Impairment – DUI or Substance Abuse                   | Stayed revocation<br>N=247                    | Pay court costs<br>N=217        | Present consent order to employer, clients and/or referral source<br>N=168                     | Restricted from providing supervision<br>N=167<br>Probation<br>N=165 |
| Unprofessional Conduct                                | Stayed revocation<br>N=245                    | Pay court costs<br>N=230        | Present consent order to employer, clients and/or referral source<br>N=131                     | Probation<br>N=130<br>Restricted from providing supervision<br>N=129 |
| Misrepresentation on licensure application or renewal | Fine and CEUs<br>N=178                        | Statement of Compliance<br>N=93 | Stayed revocation<br>N=26  | Pay court costs<br>N=20  |
| Failure to meet CEU requirements                      | Fine and CEUs<br>N=179                        | Statement of Compliance<br>N=92 |  |  |
| Failure to meet minimum standards (incompetency)      | Stayed revocation<br>N=94                     | Pay court costs<br>N=93         | Present consent order to employer, clients and/or referral source<br>N=39<br>Probation<br>N=39 | Restricted from providing supervision<br>N=38                        |
| Billing fraud or other fraudulent practices           | Restricted from providing supervision<br>N=85 | Pay court costs<br>N=75         | Present consent order to employer, clients and/or referral source<br>N=49                      | Probation<br>N=48<br>Restricted from providing supervision<br>N=47   |
| Committed or arrested for a felony                    | Stayed revocation<br>N=73                     | Pay court costs<br>N=59         | Present consent order to employer, clients and/or referral source<br>N=40<br>Probation<br>N=40 | Restricted from providing supervision<br>N=38                        |

|  |                           |                         |   |   |
|--|---------------------------|-------------------------|---|---|
| Failure to comply with terms of consent agreement                                | Stayed revocation<br>N=65 | Pay court costs<br>N=19 | Probation<br>N=5<br>Restricted from providing supervision<br>N=5<br>Present consent order to employer, clients and/or referral source<br>N=5    | Take graduate course<br>N=4<br>Therapy<br>N=4<br>Regular drug tests<br>N=4<br>Progress reports, proof of compliance, or reaction paper<br>N=4 |
| Sexual dual relationship, sexual misconduct, or sexually inappropriate behaviors | Stayed revocation<br>N=55 | Pay court costs<br>N=45 | Probation<br>N=10<br>Restricted from providing supervision<br>N=10<br>Present consent order to employer, clients and/or referral source<br>N=10 | Undergo MSE/ psychological eval/ chemical dependency eval<br>N=7<br>Therapy<br>N=7<br>Supervision<br>N=7                                      |

\* May include more than just the fourth sanction on some of the violations if they appeared to follow a pattern of sanctions.

## License Type (California)

| License Type                                   | # of professionals | %    |
|--|--------------------|------|
| LMFT   | 531                | 59.7 |
| Provisional license (LAMFT, LMFTA, LMFTI, MFT) | 330                | 37.1 |
| Applicant or unlicensed                        | 28                 | 3.1  |
| Temporary                                      | 0                  | 0    |



## APPENDIX D

### Texas State Board of Examiners of Marriage and Family Therapists

|   |   |   |
|---|---|---|
| Jennifer Smothermon, MA,<br>LPC-S, LMFT-S<br><i>Chair</i> | Mail Code 1982<br>P.O. Box 149347<br>Austin, Texas 78714-9347<br>(512) 834-6657<br>FAX (512) 834-6677<br>mft@dshs.state.tx.us | Kenneth Bateman, EdD, LPC-S,<br>LMFT-S<br>George Francis, MBA<br><i>Public Member</i><br>Evelyn Husband-Thompson,<br><i>Public Member</i><br>Lisa Merchant, PhD, LMFT<br>Michael Miller, JD,<br><i>Public Member</i><br>Keith Rosenbaum, PhD, LMFT<br>Anthony Scoma,<br><i>Public Member</i><br>Richmond Stoglin, MPA, D.Min,<br>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.

### 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.

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

| <b>Rule</b>   | <b>Action</b>                   |
|---|---------------------------------|
| 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(n) 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(a) 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(a) Written reports within 30 days of criminal, civil, or agency action | Level 5 Reprimand |
| 801.50(b) Appropriate use of assumed name                                     | Warning           |

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

| <b>Rule</b>  | <b>Action</b>                   |
|--|---------------------------------|
| 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(0) 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(n) Failure to inform client and proper informed consent   | Level 5 Reprimand               |
| 801.57(0) 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(0)(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(i) 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              |



### **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:

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*Jeffry Bulloch*





# Penalty Matrix Cross-Index

Appendix D

## Non-disciplinary Actions

- Warning
- Conditional Letter

## Disciplinary Actions

*(reported to NPDB and posted to website)*

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

| Rule   | Action                          |
|--|---------------------------------|
| 801.43(a) Appropriately identifying license  | Warning                         |
| 801.43(b) Making false statements  | Level 5 Reprimand               |
| 801.43(e) Reasonable efforts to prevent others from making false statements                  | Warning                         |
| 801.44(a) Provide services only in the context of a professional relationship                | Level 5 Reprimand               |
| 801.44(b) Failure to inform client and proper informed consent                               | Level 5 Reprimand               |
| 801.44(c) Failure to inform client and proper informed consent                               | Level 5 Reprimand               |
| 801.44(d) Failure to inform client and proper informed consent                               | Level 5 Reprimand               |
| 801.44(e) Referral 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 clients and former clients                   | Level 5 Reprimand               |
| 801.44(k) Protect individual from harm resulting from a group setting                        | Warning                         |
| 801.44(l) Avoid non-therapeutic relationships with clients                                   | Conditional Letter of Agreement |
| 801.44(m) Keep accurate records  | Conditional Letter of Agreement |
| 801.44(o) Bill only for services actually rendered or as agreed in writing                   | Level 5 Reprimand               |
| 801.44(p) Refer clients at termination of services   | Conditional Letter of Agreement |
| 801.44(p) Terminate services when client is not benefiting                                   | Level 4 Probated Suspension     |
| 801.44(q) Appropriately identifying license  | Warning                         |
| 801.44(q) Consumer Complaint Information   | Warning                         |
| 801.44(r) Provide services within competency and professional standards                      | Level 4 Probated Suspension     |
| 801.44(s) Base services on client assessment, evaluation, or diagnosis                       | Level 4 Probated Suspension     |
| 801.44(u) Promote or encourage the illegal use of alcohol or drugs                           | Level 1 Revocation              |
| 801.44(v) Provide services to client served by another                                       | Level 5 Reprimand               |
| 801.44(w) Provide services while impaired  | Level 2/3 Suspension            |
| 801.44(x) Refer clients when needed  | Conditional Letter of Agreement |
| 801.44(y) Aid or abet unlicensed practice  | Level 2/3 Suspension            |
| 801.44(z) Enter a non-professional relationship with a client's family member                | 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) Appropriate training and experience to administer and interpret test               | 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(e) Keep accurate records  | Warning                         |
| 801.48(f) Maintain confidentiality in how client records are stored or disposed  | Level 4 Probated Suspension     |
| 801.48(g) Plan for custody of records  | Level 5 Reprimand               |
| 801.48(h)(1) Report sexual misconduct  | Level 5 Reprimand               |
| 801.48(h)(2) Inform client about reporting sexual misconduct   | Warning                         |
| 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 to board within 30 days  | Level 5 Reprimand               |
| 801.50(b) Appropriately identifying license  | Warning                         |
| 801.51(a) Consumer Complaint Information   | Warning                         |
| 801.52(a) Appropriately identifying license  | Warning                         |
| 801.52(b) Alter license certificate or annual renewal card   | Level 2/3 Suspension            |
| 801.52(c) Appropriately identifying license  | Warning                         |
| 801.53(a) Making false statements  | Level 5 Reprimand               |
| 801.53(d) Appropriately identifying license  | Warning                         |
| 801.53(e) Appropriately identifying license  | Warning                         |
| 801.53(f) Appropriately identifying 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 shall 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     |
| 801.236(c) Act as therapist while on inactive status   | Level 1 Revocation              |
| 801.142(1)(D) Supervisor must timely process and maintain Associate's file   | Conditional Letter of Agreement |
| 801.143(c) Supervisor may not be employed by supervisee  | Level 5 Reprimand               |
| 801.143(d) Supervisor may not be related to supervisee   | Level 5 Reprimand               |
| 801.143(e) Document supervision and Associate's supervised experience  | Conditional Letter of Agreement |
| 801.143(f)(1) Supervisor must ensure Associate is aware of Code of Ethics  | Warning                         |
| 801.143(f)(2) Supervisor/Associate dual relationship   | Level 5 Reprimand               |
| 801.143(f)(4) Supervisor must implement Associate's written remediation plan   | Level 5 Reprimand               |
| 801.143(f)(5) Supervisor must timely submit accurate experience documents  | Level 5 Reprimand               |
| 801.143(h) Ex-supervisor must reimburse all supervisees for supervision provided while the license was expired                   | Level 4 Probated Suspension     |
| 801.143(h) Supervisor continues to supervise after license expiration  | Level 5 Reprimand               |
| 801.143(j) Disciplined supervisor must inform all Associates of board action and assist Associates to find alternate supervision | Level 5 Reprimand               |
| 801.143(m) Ex-supervisor must refund all supervisory fees received after the expiration of the supervisory status                | Level 4 Probated Suspension     |

