

Public Protection & Promotion of the Profession

Complementary Roles of the Licensing Board & the Professional Organization

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Abstract: *A cybernetic view of the relationship between the licensing board that regulates the practice of LMFTs and the professional organization that advocates for licensees provides a second-order description of the “regulatory-advocative system” as it seeks to create a healthy professional culture in the state for the MFT practitioner and consumer. A meta-mission statement and meta-goals for the regulatory-advocative system are suggested that offer specific opportunities for collaboration between the licensing board and the professional organization.*

Marriage and family therapists (MFTs) are uniquely experienced in seeing and describing "complementarities" in what appear to be "opposites." This is because MFTs must earn their keep by cultivating resourceful harmonies out of what might seem to be disparaging contradictions.

The imperative of the regulatory board that governs the practice of LMFTs--to protect the public--and that of the professional organization--to promote and protect the profession and the professional--are often presented as “opposites” or in competition with one another. This linear view keeps the two safely juxtaposed as polarities and places the emphasis on the “separateness” of the two imperatives. True, when regulatory or advocative bodies, either out of ignorance or intent, fail to clearly apprehend or appreciate the distinctiveness of their missions, bad things *do* happen for the consumer and the mental health practitioner.¹

However, a seemingly “safe and simple” linear view of the interaction between the regulatory and professional advocative bodies in the state that cannot adequately subsume the full complexity of the relationship between the two serves only to detract from our understanding of the function of either body. Considering the challenges inherent in the current political and economic environment in which the regulator, licensee, *and* consumer must function, it seems advantageous to seek a more sophisticated description of the connection between regulation, advocacy for the profession, and consumer welfare that reveals commonalities and interdependencies rather than exclusive “either/or” differences.

This monograph looks at the *regulatory-advocative system* for the purpose of discovering interdependencies and dynamic balances between professional regulation and advocacy that

¹ Actions taken in the last decade by certain regulatory boards in Louisiana designed to restrict the trade of other mental health professions in order to “corner the marketplace” for the professionals they themselves regulate stand as glaring examples of this fact.

benefit “the whole.” This holistic view allows for an understanding of the role of each imperative in the context of the other for the purpose of developing schemas for cooperation and coordinated action that preserve the integrity and ethic of each.

Regulation & Professional Advocacy--A Fundamental Symbiosis

The role and function of the Licensed Professional Counselors Board of Examiners (informed by the Marriage and Family Therapy Advisory Committee) is to *protect the public* or to *act in the public interest* by regulating the practices of LPCs and LMFTs. While the constituency of the regulatory body is the public at large, the Board and the Advisory Committee were created and empowered to discharge this responsibility by Louisiana lawmakers through legislation sponsored by professional organizations whose prime imperative is the advancement of the profession.²

Regulation of the profession of MFT requires licensees to spend time and money in maintaining the functioning of the licensing board and to meet minimum licensing standards. Some licensees who fail to maintain minimum professional standards are affected adversely by the regulatory process they themselves support. Nonetheless, MFTs and their state professional organization bear the burden of regulation out of a consensus that the regulation of the profession in the public interest increases the status of the profession of MFT, equipping LMFTs to be competitive in the marketplace among other licensed mental health professionals.³ In turn, licensing laws provide uniform occupational standards that protect the public from the “unlawful practice” of MFT. This symbiosis between the regulatory board and the professional organization provides a context to understand how the two entities act in complementary fashion to benefit the consumer *and* the professional.

As part of its mandate to protect the public, the prominent function of the licensing board is the sanctioning of licensed practitioners who do not meet the minimum occupational standards provided in the law and rules. Protecting the public, however, goes beyond the sanctioning of errant licensees. Proactive rather than responsive imperatives like improving public access to therapeutic services and educating the public about the scope of practice of LMFTs also fall solidly within the regulatory mandate of the licensing board and complements the professional organization’s imperative to educate the consumer on behalf of MFTs, further illustrating the fundamental symbiosis between the two entities.

² Because it is a “special interest” group that does not maintain a manifest responsibility to the public at large, the professional organization is free to work in the political arena, partnering with lawmakers to create legislation that enhances the status of the profession of MFT and the ability of licensees to ply their skills in the mental health marketplace.

³ If it were not for licensure, it would be impossible for MFTs to acquire third-party payments for their services, restricting the pool of possible clients accessible to them in comparison to other mental health professionals.

Maintaining the Symbiosis

After the described symbiosis has been created, what then? What is the *ongoing* political mandate of the professional organization? Unfortunately for MFTs, fair access to the marketplace for licensees in Louisiana is much more a *political* than a practical matter. Compared to other mental health professionals, LMFTs possess equal or in most cases more extensive education and training; yet, after a decade and a half of licensure, MFTs do not have the same access to the mental health marketplace that psychologists and social workers enjoy. This is because the rules that determine access to the marketplace are determined politically, not practically. For this reason, the professional organization must build and exercise political influence to continue to shape the evolving economic and political terrain in the state in a way that benefits MFTs⁴

A vital element in the process of informing the political and economic milieu in favor of MFTs is the task of keeping the laws that *govern* the profession current, clear, and comprehensive. This provides a concise platform for the regulatory board to write occupational standards that are a true representation of the unique abilities of MFTs and that are resilient to political undermining. In performing this task, the professional organization keeps their constituents safe from legal/political attack from other mental health professions in competition with them and empowers the licensing board to demonstrate good stewardship in protecting the public interest, which in turn enhances the standing and reputation of the profession of MFT in the state.

In summary, it is imperative that the regulatory and “advocative” bodies maintain a healthy symbiosis with one another. The professional organization provides necessary ongoing legislative support to the mandate of the regulatory body to protect the public. The licensing board in turn writes occupational standards that enhance the standing MFT as a profession among its marketplace competitors.

The Regulatory-Advocative System

As pointed out earlier, the full nature and nuance of the function of any particular part of the system can only be apprehended when considered in context. Defining the function of the *regulatory-advocative system* places the imperative of each facet of the system in the context of the other and offers a refined look at the distinctiveness, commonality, and complementarity of each. This view allows for the development of a more sophisticated “ethic” in describing how regulatory and advocative bodies should interact with each other and opens the door for the development of a *meta-mission statement* and *meta-goals* for the system at large.

⁴ As the number and type of mental health professionals in Louisiana grow and as the dollars available for mental health care shrink, this mandate becomes more urgent.

A Meta-Mission Statement: A Healthy MFT Culture

The *regulatory-advocative system* creates a “professional culture”⁵ for MFTs in any given jurisdiction. From a systemic perspective, a culture that is “healthy” for any single part of the system is also healthy and functional for all parts and vice versa. This holistic view allows for the development of the following “systemic” mission statement:

*The MFT regulatory-advocative system works to create a functional, resilient professional culture that is **optimally healthy** for the consumer, the MFT, and the public at large.*⁶

Meta-Goals & Objectives

Once a meta-mission statement for the *regulatory-advocative system* has been articulated, the next step is the collaborative development of measurable goals that define intentional action for the system in fulfilling the meta-mission statement and that assist the regulatory board and the professional organization in understanding their respective roles in accomplishing those goals.

The following are proposed as necessary meta-goals for the *regulatory-advocative system* in creating a professional culture that is optimally healthy for the consumer, the MFT, and the public at large. For each goal, a rationale for collaboration between the licensing board and the professional organization is briefly explored.

META-GOAL: DEVELOP, CLARIFY, & CONVEY TO THE PUBLIC A COMPREHENSIVE & COMPLETE JURISDICTIONAL SCOPE OF PRACTICE FOR MFTs

For the practitioner, “scope of practice” represents the boundaries of his or her clinical competencies as bestowed by education, training, and experience and reflects the unique aspects of his or her professional identity. This “actual” scope of practice for MFTs evolves and becomes more formalized over time as professional organizations collaborate with educational, credentialing, and accrediting bodies.

When a profession becomes regulated in the public interest, lawmakers must establish a “jurisdictional” scope of practice that determines the domain within which a licensee may legally interface with the public. As will be discussed later, the *jurisdictional* scope of practice may or not be a full representation of the licensees’ *actual* scope of practice. The jurisdictional

⁵ The term *culture* is used to denote a holism, assuming the interdependencies previously described between regulatory and advocative processes.

⁶ Further work in developing this mission statement might entail a collaboration between the licensing board and the professional organization in defining the specifics of a “healthy” culture.

scope of practice is determined by the legislature⁷, defined in the law, and overseen by the licensing board in the protection of the public. It is the jurisdictional scope of practice that equips the regulatory body to determine who is and isn't practicing MFT according to jurisdictional standards and to protect the public by sanctioning licensees who are not.

The jurisdictional scope of practice also determines the domain within which the MFT has the *right* to practice. An MFT's right to practice equates to his or her "right to trade," or his or her ability to market and "sell" his or her services to consumers in order to make a living. For the professional organization, scope of practice is a measure of the economic "slice of the pie" that MFTs may claim as they compete with other licensed professionals in the mental health marketplace. From the standpoint of the professional organization and its constituents, the broader the jurisdictional scope of practice the better, as it opens a wider consumer/job market for licensees.

When considered in all of these facets, it seems clear that developing, defining, and conveying an MFT scope of practice resides at the core of the mission statement of the *regulatory-advocative system* and is foundational to creating a healthy professional "culture" for the practitioner and the consumer.

As pointed out earlier, the development of the scope of practice of MFTs begins with the professional organization as it sets educational standards for the profession at large and defines the professional identity of MFTs. However, if the unique training of MFTs is to be useful to vendors or consumers in any given jurisdiction, the professional organization must also build political influence and collaborate with lawmakers in order to craft legislation that is a full, accurate representation of the *actual* competencies of MFTs.⁸ Failure in this regard can result in a "gap" between the *actual* and *jurisdictional* scopes of practice for MFTs. This gap not only can limit the MFT's viability and competitiveness in the marketplace but also may limit public access to the unique set of services that MFTs are trained to provide.

The passage of well-crafted legislation that clearly and accurately represents the actual scope of practice for MFTs reverberates through the professional culture in the following ways:

⁷ It should be emphasized that lawmakers did not "invent" scope of practice. The ethical and practical identity of the clinician as expressed in his or her scope of practice was created and evolves over time as it is informed by professional consensus and the nature of MFT education and training. Lawmakers merely *codify and prescribe* scope of practice for a given jurisdiction so that it can be used in the protection of the public.

⁸ The actual scope of practice for any given mental health profession does not remain static. Actual scope of practice "expands" as the level and quality of training, education, and experience received by its professional constituents increases. It is incumbent on the professional organization to make sure that the *jurisdictional* scope of practice evolves along with the *actual* scope of practice for MFTs. Again, when the jurisdictional scope of practice does not correspond to the actual scope, problems are created for the practitioner and the consumer.

1. For the consumer, access to the complete range of competencies and skills offered by MFTs is maximized.
2. For the licensed practitioner, the fullest access possible to the job/consumer marketplace is provided, increasing his or her earning power as a private practitioner and his or her attractiveness as a potential employee.
3. For the licensing board, a solid platform for clarifying the MFT scope of practice through the promulgation and enforcement of rules⁹ or occupational standards is provided. Clear, concise, and comprehensive occupational standards for MFTs equip the licensing board to not only identify and restrict the practice of incompetent licensees, but also to protect competent licensees and their profession against undue “legal sanction” by other regulatory or special interest organizations.

Once a jurisdictional scope of practice for MFTs has been successfully put in place and occupational standards developed that clarify and specify MFT scope of practice, it still remains for the scope of practice and occupational standards to be clearly and effectively conveyed to the public. As part of its mandate to act in the public interest, it is the responsibility of the licensing board to *promulgate*, or publish for public viewing and consideration, the occupational standards of the profession it regulates.¹⁰ From the standpoint of the professional MFT, *consumer education* provided by the professional organization “gets the word out” to potential customers about the unique strengths of MFT and the special competencies and high professional standards possessed by LMFTs. This enhances the MFTs competitiveness in the job market and among consumers.

META-GOAL: ESTABLISH, PROTECT, & PROMOTE THE AUTONOMOUS PRACTICE OF MFTs

It is in the public interest for competent licensees to be able to work within the boundaries of their jurisdictional scope of practice without undue legal or economic constraints being imposed on them by special interest groups that are not mandated to protect the public. To the extent that the profession of MFT is legally deemed a “subsidiary” of another profession or to the extent that LMFTs are unnecessarily dependent on other mental health professionals to ply their trade, LMFTs will be vulnerable to restriction and sanction by regulatory or advocative bodies other than their own whose interests run contrary to the welfare of the LMFT and the

⁹ As has been asserted in the past, “good” rules cannot come from “bad” legislation. Legislation that is piecemeal and poorly crafted always results in poor quality rules which only create confusion for professional and consumer alike, contributing to an “unhealthy MFT culture.”

¹⁰ At minimum, the licensing board is required to submit all rules for promulgation in the *Louisiana Register*. Beyond this, the licensing board fulfills this portion of its mission statement to the public by providing a website to facilitate access to information about the occupational standards of MFTs and by requiring all licensees to review a *Statement of Practice* with each consumer that highlights important legal information about the practitioner.

consumer of his or her services. This vulnerability represents a serious threat to the resiliency and health of the professional culture for MFTs.

It is important, therefore, that the regulatory-advocative system builds the resiliency and health of the professional culture for MFTs in the state by working to establish and protect the ability of the licensee to work autonomously within his or her scope of practice.

Summary & Conclusion

The regulatory-advocative system cannot *not* create a professional culture for MFTs in Louisiana. It will either create a culture that is optimally healthy for the licensed practitioner and the consumer of his or her services or it will settle for less, limiting the practitioner's ability to ply his or her trade and restricting the public from full access to the unique skills of MFTs.

Two vital goals for the regulatory-advocative system in creating a healthy, resilient professional culture are to develop, clarify, and convey to the public a comprehensive, complete jurisdictional scope of practice for MFTs that corresponds to their actual scope of practice and to establish, protect, and promote the autonomous practice of MFTs.