

State of Utah
Administrative Rule Analysis
 Revised May 2020

NOTICE OF PROPOSED RULE

TYPE OF RULE: New ___; Amendment XXXX; Repeal ___; Repeal and Reenact ___		
Title No. - Rule No. - Section No.		
Utah Admin. Code Ref (R no.):	R156-60c	Filing No. (Office Use Only)
Changed to Admin. Code Ref. (R no.):	R	

Agency Information

1. Department:	Department of Commerce	
Agency:	Division of Occupational and Professional Licensing	
Room no.:		
Building:	Heber M. Wells Building	
Street address:	160 East 300 South	
City, state:	Salt Lake City UT 84111-2316	
Mailing address:	PO Box 146741	
City, state, zip:	Salt Lake City UT 84114-6741	
Contact person(s):		
Name:	Phone:	Email:
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Please address questions regarding information on this notice to the agency.

General Information

2. Rule or section catchline:

Clinical Mental Health Counselor Licensing Act Rule

3. Purpose of the new rule or reason for the change (If this is a new rule, what is the purpose of the rule? If this is an amendment, repeal, or repeal and reenact, what is the reason for the filing?):

In accordance with 2019 HB 366 and recommendations made by the licensing boards over the professions included in the Mental Health Professionals Practice Act, the Division recommends these amendments to better delineate the relationship between mental health supervisors and supervisees to ensure fairness, accountability, and attaining of supervision objectives, and to streamline and update the continuing education provisions to provide consistency among all of the mental health professions. There is a sister rule filing for each profession regulated under the Mental Health Professional Licensing Act. The Division in collaboration with the Clinical Mental Health Counselor Licensing Board also recommends these amendments in accordance with 2020 SB 68 to clarify qualifications for licensure and establish requirements for education and practicum and internship, and establish a post-degree program for applicants who don't meet the core coursework requirements and would like to pursue licensure by completing additional coursework.

4. Summary of the new rule or change:

In accordance with statutory changes made by 2020 SB 68, Section R156-60c-302a containing obsolete education requirements is deleted, and Section R156-60c-102 is amended to update the definition of "Deficiency" and to define "Equivalent Field" as used in Section 58-60-405. These amendments clarify that the qualifying education requirement for licensure as a clinical mental health counselor includes only 700 documented hours of supervised clinical training from at least one practicum/internship.

Section R156-60c-302b is renumbered to R156-60c-302a, and Sections R156-60c-401 and R156-60c-402 are deleted. These changes update the rule per 2019 HB 366, and establish criteria for supervision for a certified social worker obtaining hours toward licensure as a licensed clinical social worker. The supervisor and the supervisee will enter into a supervision contract prior to beginning the supervision, with a sister rule filing in R156-60 defining the contract and supervision procedures for all the mental health professions governed by the Mental Health Practice Act.

Section R156-60c-302c is renumbered to R156-60c-302b, and is amended to add the National Board for Certified Counselors (NBCC) National Counselor Examination (NCE) as a qualification for licensure.

New Section R156-60c-302c provides an additional licensure pathway. If an applicant's qualifying degree upon which licensure is to be based fails to include required coursework, the applicant may complete certain requirements post-degree in order to obtain licensure.

The amendments to Section R156-60c-304 delete the continuing education provisions for CMHC licensees from this rule. These substantive provisions have been incorporated into the Mental Health Professional Practice Act Rule via a sister rule filing, to assist in streamlining and clarifying the continuing education requirements for all of the professions regulated under the Mental Health Professional Licensing Act.

The amendments to Section R156-60c-306 clarify licensure reinstatement requirements.

The amendments to Section R156-60c-502 update references and make non-substantive formatting changes for clarity.

Fiscal Information

5. Aggregate anticipated cost or savings to:

A) State budget:

As described in the analyses for small business and non-small business, Section R156-60c-302c may indirectly benefit state agencies acting as businesses that employ mental health professionals, but the full fiscal and non-fiscal benefits are inestimable. The Division may also experience an indirect fiscal impact resulting from additional staff workload caused by increased applications for mental health licenses, but any such cost is expected to be largely balanced by additional revenue and will be absorbed within the Division's existing budget. None of the remaining proposed changes together with the sister rule filings are expected to impact state government revenues or expenditures because they only clarify requirements and update the rule to conform to statutory changes enacted by 2019 HB 366 and 2020 SB 68, and will not change existing state practices or procedures.

B) Local governments:

None of these proposed changes are expected to impact local government revenues or expenditures because they will not change existing local government practices or procedures.

C) Small businesses ("small business" means a business employing 1-49 persons):

There are approximately 1,340 small businesses in Utah comprising establishments of licenses engaged in the practice of mental health therapy and/or substance use disorder counseling who may employ those engaged in the practice of mental health therapy, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, 624190, 621420, 622310). New Section R156-60c-302c may benefit these small businesses who employ mental health professionals. The full fiscal and non-fiscal benefits cannot be determined because the data necessary to determine how many mental health agencies will hire mental health professionals resulting from more post-degree programs is unavailable. The resulting employment will vary widely depending on the characteristics and scope of practice of each small business, as well as the individual characteristics of each licensee. The remaining amendments together with the sister rule filings making corresponding amendments to R156-60-102 and R156-60-305 are not expected to impact small business revenues or expenditures because they merely establish and clarify definitions, standards, and procedures to encompass current requirements and best practices as well as update the rule to conform to statutory changes enacted by 2019 HB 366 and 2020 SB 68.

D) Non-small businesses ("non-small business" means a business employing 50 or more persons):

There are approximately 72 non-small businesses in Utah comprising establishments of licenses engaged in the practice of mental health therapy who may employ those engaged in the practice of mental health therapy, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, 624190). New Section R156-60c-302c may benefit these non-small businesses who employ mental health professionals. The full fiscal and non-fiscal benefits cannot be determined because the data necessary to determine how many mental health agencies will hire mental health professionals resulting from more post-degree programs is unavailable. The resulting employment will vary widely depending on the characteristics and scope of practice of each non-small business, as well as the individual characteristics of each licensee. The remaining amendments

together with the sister rule filings making corresponding amendments to R156-60-102 and R156-60-305 are not expected to impact non-small business revenues or expenditures because they merely establish and clarify definitions, standards, and procedures to encompass current requirements and best practices as well as update the rule to conform to statutory changes enacted by 2019 HB 366 and 2020 SB 68.

E) Persons other than small businesses, non-small businesses, state, or local government entities ("person" means any individual, partnership, corporation, association, governmental entity, or public or private organization of any character other than an **agency**):

The amendments establishing and clarifying supervision standards will impact all licensees who require supervision in order to attain full licensure. However, the impact is expected to be fiscally neutral because the financial arrangements for supervision for the supervisors and supervisees will not be changed by the proposed amendments. The amendments will only codify best practices for the profession by providing direction in the process of supervision that is required for new professionals who are learning proper techniques in a clinical setting, and require that the supervision is documented in a written contract to ensure the supervision is done in a manner that will fulfill the statutory requirements. The amendments are expected to simply allow for greater efficiency in supervision and allow the supervisees to more easily obtain proper documentation of supervision hours.

The Division estimates that the amendment to (renumbered) R156-60c-302b requiring applicants for CMHC licensure to pass the NCE exam will result in a direct ongoing fiscal cost to CMHC applicants. Each exam costs approximately \$275. Based on the average number of CMHC applications for the last 3 years, and an average 10% retest rate, the Division estimates that these amendments will result in a total cost to all applicants of approximately \$57,475 in FY 2021 (\$275/exam x 190 applicants, with 19 estimated retakes at a cost of \$275 per retake), \$60,500 in FY 2022 (estimated 200 CMHC applicants), and \$61,150 in FY 2023 (estimated 220 CMHC applicants).

New Section R156-60c-302c that will provide a pathway for licensure for applicants who are deficient in coursework will help such persons obtain licensure in Utah. However, the net impact to these applicants from the potential savings or cost from these amendments is inestimable, as it will vary substantially depending on the characteristics and choices of each applicant, and the relevant data is unavailable. Mental health customers are also expected to receive an indirect benefit from more licensees becoming employed, but this indirect benefit is inestimable as it will vary widely depending on the characteristics of the customers and this data is unavailable.

F) Compliance costs for affected persons:

There are not expected to be any compliance costs for affected persons.

G) Regulatory Impact Summary Table (This table only includes fiscal impacts that could be measured. If there are inestimable fiscal impacts, they will not be included in this table. Inestimable impacts will be included in narratives above.)

Regulatory Impact Table

Fiscal Cost	FY2021	FY2022	FY2023
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$57,475	\$60,500	\$61,150
Total Fiscal Cost	\$57,475	\$60,500	\$61,150
Fiscal Benefits			
State Government	\$0	\$0	\$0
Local Governments	\$0	\$0	\$0
Small Businesses	\$0	\$0	\$0
Non-Small Businesses	\$0	\$0	\$0
Other Persons	\$0	\$0	\$0
Total Fiscal Benefits	\$0	\$0	\$0
Net Fiscal Benefits	-\$57,475	-\$60,500	-\$61,150

H) Department head approval of regulatory impact analysis:

The head of the Department of Commerce, Chris Parker, has reviewed and approved this fiscal analysis.

6. A) Comments by the department head on the fiscal impact this rule may have on businesses:

The Division of Occupational and Professional Licensing proposes amendments to update the Clinical Mental Health Counselor Licensing Act Rule in accordance with 2019 HB 366 and recommendations made by the licensing boards over the professions included in the Mental Health Professionals Practice Act. The revisions establish criteria for supervision for a substance use disorder counselor and an advanced substance use disorder counselor obtaining hours toward licensure. There are also substantive provisions that have been incorporated into the Mental Health Professional Practice Act Rule through other rule filings connected with 2019 HB 366 to harmonize the continuing education requirements for all of the professions regulated under the Mental Health Professional Licensing Act. Amendments are also made to update references and make non-substantive formatting changes for clarity.

Small Businesses (less than 50 employees):

In Utah, there are approximately 1,340 small businesses comprised of licensees practicing mental health therapy and substance use disorder counseling, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, 624190, 621420, 622310). These amendments together with similar rule filings connected with 2019 HB 366 will codify best practices for the profession by providing direction in the process of supervision that is required for new professionals who are learning proper techniques in a clinical setting. Thus, all amendments as a whole should allow for greater efficiency in supervision and documentation of hours. Accordingly, no fiscal impact is expected for small business over and above any fiscal impact described in the Legislative fiscal note for 2019 HB 366 as these costs are either inestimable or there is no fiscal impact.

Regulatory Impact to Non-Small Businesses (50 or more employees)

In Utah, there are approximately 72 non-small businesses comprised of establishments engaged in the practice of mental health therapy and substance use disorder counseling who may employ those engaged in the practice of substance use disorder counseling, such as private or group practices, hospitals, or medical centers (NAICS 621112, 621420, 621330, 622210, 623220, 624190). These amendments together with the other rule filings connected with 2019 HB 366 will codify best practices for the profession by providing direction in the process of supervision that is required for new professionals who are learning proper techniques in a clinical setting. These changes will allow greater efficiency in supervision. Thus, these changes are not expected to impact non-small business revenues or expenditures because they establish and clarify definitions, standards, and procedures to incorporate current requirements and update the rule to conform to statutory changes. Any fiscal impact beyond those described in the Legislative fiscal note for 2019 HB 366 are either inestimable or there is no fiscal impact.

B) Name and title of department head commenting on the fiscal impacts:

Chris Parker, Executive Director

Citation Information

7. This rule change is authorized or mandated by state law, and implements or interprets the following state and federal laws. State code or constitution citations (required):

Section 58-60-401	Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)

Incorporations by Reference Information

(If this rule incorporates more than two items by reference, please include additional tables.)

8. A) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

	First Incorporation
Official Title of Materials Incorporated (from title page)	American Mental Health Counselors Counseling Association Code of Ethics
Publisher	American Mental Health Counselor Association
Date Issued	2020
Issue, or version	

B) This rule adds, updates, or removes the following title of materials incorporated by references (a copy of materials incorporated by reference must be submitted to the Office of Administrative Rules; if none, leave blank):

	Second Incorporation
Official Title of Materials Incorporated (from title page)	

Publisher	
Date Issued	
Issue, or version	

Public Notice Information

9. The public may submit written or oral comments to the agency identified in box 1. (The public may also request a hearing by submitting a written request to the agency. The agency is required to hold a hearing if it receives requests from ten interested persons or from an association having not fewer than ten members. Additionally, the request must be received by the agency not more than 15 days after the publication of this rule in the Utah State Bulletin. See Section 63G-3-302 and Rule R15-1 for more information.)

A) Comments will be accepted until (mm/dd/yyyy): 11/02/2020

B) A public hearing (optional) will be held:

On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
10/05/2020	9:00 AM	Rule hearing will be held before the Division electronically only. Meeting ID meet.google.com/cwk-sgez-hny <input type="checkbox"/> Phone Numbers (US)+1 302-846-7685 PIN: 165 425 131#

10. This rule change MAY become effective on (mm/dd/yyyy): 11/09/2020

NOTE: The date above is the date on which this rule MAY become effective. It is NOT the effective date. After the date designated in Box 10, the agency must submit a Notice of Effective Date to the Office of Administrative Rules to make this rule effective. Failure to submit a Notice of Effective Date will result in this rule lapsing and will require the agency to start the rulemaking process over.

Agency Authorization Information

To the agency: Information requested on this form is required by Sections 63G-3-301, 302, 303, and 402. Incomplete forms will be returned to the agency for completion, possibly delaying publication in the *Utah State Bulletin*, and delaying the first possible effective date.

Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy):	09/14/2020
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R156. Commerce, Occupational and Professional Licensing.

R156-60c. Clinical Mental Health Counselor Licensing Act Rule.

R156-60c-102. Definitions.

In addition to the definitions regarding clinical mental health counseling in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60, [or this rule] the following rule definitions supplement the statutory definitions:

(1) "Deficiency," [7] as used in Subsection 58-60-117(1) (d), means that the educational degree upon licensure is to be based fails to include coursework listed in any one or more of Subsections R156-60c-102a(4) (b) (i) through (ix) and R156-60c-102a(4) (c). [÷

~~— (a) no more than a combined total of six semester or nine quarter hours in:~~

~~— (i) group counseling and group work;~~

~~— (ii) human growth and development;~~

~~— (iii) career development;~~

~~— (iv) substance-related and addictive disorders; and~~

~~— (v) research and program evaluation.]~~

(2) "Internship" means:

(a) one or more courses completed as part of a program at an accredited school:

(i) in a public or private agency engaged in the clinical practice of mental health therapy as defined in Subsection 58-60-102(7); and

(ii) under supervision provided by a qualified mental health training supervisor as defined in Section R156-60c-[401]302a.

(3) "Practicum" means:

(a) one or more courses completed as part of a program at an accredited school:

(i) in a public or private agency engaged in the clinical practice of mental health therapy as defined in Subsection 58-60-102(7); and

(ii) under supervision provided by a qualified mental health training supervisor as defined in Section R156-60c-[401]302a(3) (a) through R156-60c-302a(3) (c).

(4) "Equivalent field," as used in Section 58-60-405, means that the educational program:

(a) prepares students to practice mental health counseling through the study of generally recognized clinical mental health counseling principles, methods, and procedures;

(b) contains graduate level courses in the following subjects:

(i) social and cultural diversity;

(ii) group counseling and group work;

(iii) human growth and development;

(iv) career development;

(v) counseling and helping relationships;

(vi) substance-related and addictive disorders;

(vii) assessment and testing;

(viii) mental status examination and the appraisal of DSM maladaptive and psychopathological behavior; and

(ix) research and program evaluation; and

(c) includes 700 documented hours of supervised clinical training from at least one practicum or internship, of which 240 hours consists of providing therapy directly to clients.

([4]5) "Unprofessional conduct" as defined in Title 58, Chapters 1 and 60 is further defined, in accordance with Subsection 58-1-203(1)(e), in Section R156-60c-502.

~~**[R156-60c-302a. Qualifications for Licensure — Education Requirements.**~~

~~(1) Pursuant to Subsection 58-60-405(1)(d)(i), an applicant for licensure as a clinical mental health counselor shall:~~

~~(a) produce certified transcripts evidencing completion of at least 60 semester or 90 quarter credit hours completed as part of a master's or doctorate degree conferred to the applicant in clinical mental health counseling or counselor education and supervision from a program accredited by the Council for Accreditation of Counseling and Related Educational Programs (CACREP); or~~

~~(b)(i) produce certified transcripts evidencing completion of at least 60 semester or 90 quarter credit hours as part of a master's or doctorate degree conferred to the applicant in clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation that is recognized by the Council for Higher Education Accreditation (CHEA).~~

~~(ii) A program under Subsection (1)(b)(i) shall include the following graduate level course work:~~

~~(A) a minimum of two semester or three quarter hours in professional counseling orientation and ethical practice based on the standards of the American Counseling Association (ACA), American Mental Health Counselors Association (AMHCA), or National Board of Certified Counselors (NBCC);~~

~~(B) a minimum of two semester or three quarter hours in social and cultural diversity;~~

~~(C) a minimum of two semester or three quarter hours in group counseling and group work;~~

~~(D) a minimum of two semester or three quarter hours in human growth and development;~~

~~(E) a minimum of two semester or three quarter hours in career development;~~

~~(F) a minimum of six semester or eight quarter hours in counseling and helping relationships;~~

~~(G) a minimum of two semester or three quarter hours in substance-related and addictive disorders;~~

~~(H) a minimum of two semester or three quarter hours in assessment and testing;~~

~~(I) a minimum of four semester or six quarter hours in mental status examination and the appraisal of DSM maladaptive and psychopathological behavior;~~

~~(J) a minimum of two semester or three quarter hours in research and program evaluation;~~

~~(K) a minimum of four semester or six quarter hours of internship or practicum as defined in Subsection R156-60c-102(1) or (2) that includes combined completion of at least 1,000 hours of supervised clinical training of which at least 400 hours shall be in providing clinical mental health counseling directly to clients as defined in Subsection 58-60-102(7); and~~

~~(L) a minimum of 34 semester or 52 quarter hours of course work related to the practice of counseling of which no more than six semester~~

~~or eight quarter hours of credit for thesis, dissertation or project hours shall be counted toward the required hours in this subsection.]~~

R156-60c-302[b]a. Qualifications for Licensure - ~~[Experience]~~ Supervised Training Requirements.

(1) The clinical mental health counselor and mental health therapy training qualifying an applicant for licensure as a clinical mental health counselor under Subsections 58-60-405(1)(d) and (e) ~~[-and (f)]~~ and Section R156-60-302 shall be completed:

(a) ~~[be completed]~~ in not less than two years;

(b) ~~[be completed]~~ while the applicant is licensed as a licensed associate clinical mental health counselor ~~[-or licensed associate clinical mental health counselor extern];~~

(c) ~~[be completed]~~ while the applicant is a ~~[n]~~ W-2 employee, as defined in Subsection R156-60-102(~~[3]~~5), of a public or private agency engaged in mental health therapy ~~[-under the supervision of a qualified clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, physician, or marriage and family therapist];~~ and

(~~[e]~~d) ~~[be completed]~~ under a program of supervision by a ~~[mental health therapist meeting]~~ supervisor who meets the requirements [under Sections R156-60c-401 and R156-60c-402] of Subsection (3) and Section R156-60-302.

(2) An applicant for licensure as a clinical mental health counselor~~[r]~~ who is not seeking licensure by endorsement based upon licensure in another jurisdiction, and who has completed [all] the whole or part of the clinical mental health counselor and mental health therapy training requirements under Subsection (1) outside the state, may receive credit for that training completed outside of the state if ~~[it is demonstrated by]~~ the applicant demonstrates, by evidence satisfactory to the Division and Board, that the training [completed outside the state] is equivalent to and must meet the requirements [in all respects meets the requirements] for training under this Section and Subsections 58-60-405(1)(d) and 58-60-405(1)(e) [-and (f)], and Subsections R156-60c-302b(1). ~~The applicant shall have the burden of demonstrating by evidence satisfactory to the Division and Board that the training completed outside the state is equivalent to and in all respects meets the requirements under this Subsection].~~

(3) To qualify as a clinical mental health counselor training supervisor under Subsections 58-60-405(1)(d) and 58-60-405(1)(e), the supervisor shall:

(a) in accordance with Subsection 58-60-405(1)(d), be currently licensed in good standing as a clinical mental health counselor, psychiatrist, psychologist, clinical social workers, registered psychiatric mental health nurse specialist, marriage and family therapist, or physician, in the state where the supervised training is performed;

(b) for at least 4,000 hours in the two consecutive years prior to beginning supervised training, have been licensed in good standing and engaged in the lawful practice of mental health therapy;

(c) (i) be employed by or have a contract with the mental health agency that employs the supervisee; and

(ii) comply with R156-60-302(4)(d) by not being employed by the

supervisee, or by an agency owned in total or in part by the supervisee, or in which the supervisee has any controlling interest;

(d) enter into a written supervising contract with the supervisee in accordance with Section R156-60-302;

(e) supervise no more than six individuals who are lawfully engaged in training for the practice of mental health therapy, unless granted an exception in writing from the Division in collaboration with the Board, unless otherwise approved by the Division in collaboration with the Board; and

(f) comply with each of the duties and responsibilities uniformly established in Section R156-60-302.

R156-60c-302[e]b. Qualifications for Licensure - Examination Requirements.

[Under]In accordance with Subsection 58-60-405(1) ([e]f), an applicant for licensure as a clinical mental health counselor shall pass the following National Board for Certified Counselors (NBCC) examinations:

(1) the National Clinical Mental Health Counseling Examination (NCMHCE); and

(2) the National Counselor Examination (NCE) [~~of the National Board for Certified Counselors~~].

R156-60c-302c. Qualifications for Licensure - Post Degree Programs.

(1) If an applicant's qualifying degree upon licensure is to be based contains a deficiency as defined in Subsection R156-60c-102(1), the applicant may complete these requirements post-degree to obtain licensure, if:

(a) such coursework is completed through:

(i) a master's or doctorate degree conferred to the applicant in clinical mental health counseling, clinical rehabilitation counseling, or counselor education and supervision from a program accredited by CACREP; or

(ii) a master's or doctorate program in clinical mental health counseling or an equivalent field from a program affiliated with an institution that has accreditation recognized by CHEA;

(b) coursework is taken and passed for full credit; and

(c) no more than 12 semester or 18 quarter credits are passed for the licensure.

(2) An individual who qualifies to complete requirements post-degree under this section, and who qualifies for temporary licensure as an associate clinical mental health counselor extern under Section 58-60-117, may engage in clinical mental health counseling.

R156-60c-304. Continuing Education.

(1) [~~There is hereby established a~~]In accordance with Section 58-60-105, the continuing professional education requirements for [~~all individuals~~]a clinical mental health counselor licensed under Title 58, Chapter 60, Part 4 [~~, as a clinical mental health counselor and associate elinical mental health counselor~~]are established in Section R156-60-105.

[~~— (2) During each two year period commencing October 1st of each even numbered year, a clinical mental health counselor or licensed associate elinical mental health counselor shall complete at least 40 hours of~~

~~continuing education directly related to the licensee's professional practice of which at least six hours shall be in ethics/law.~~

~~(3) The required number of hours of continuing education for an individual who first becomes licensed during the two year period shall be decreased proportionally, according to the date of licensure.~~

~~(4) Continuing education under this section shall:~~

~~(a) be relevant to the licensee's professional practice;~~

~~(b) be prepared and presented by individuals who are qualified by education, training and experience to provide continuing education regarding clinical mental health counseling; and~~

~~(c) document and verify attendance and completion.~~

~~(5) Credit for continuing education shall be recognized in accordance with the following:~~

~~(a) unlimited hours shall be recognized for continuing education completed in blocks of time of at least one hour in formally established classroom courses, seminars, or conferences;~~

~~(b) a maximum of 10 hours per two year period may be recognized for teaching in a college or university, teaching qualified continuing education courses in the field of clinical mental health counseling, or supervising of an individual completing the experience requirement for licensure in a mental health therapist license classification; and~~

~~(c) a maximum of 10 hours per two year period may be recognized for distance learning, clinical readings, or internet based courses directly related to practice as a clinical mental health counselor or as otherwise approved by the Division.~~

~~(6) A licensee shall be responsible for maintaining competent records of completed continuing education for at least four years after close of the two year period to which the records pertain. It is the responsibility of the licensee to maintain such information with respect to continuing education to demonstrate it meets the requirements under this section.~~

~~(7) A licensee who documents having engaged in full-time activities or is subjected to circumstances that prevent the licensee from meeting the continuing education requirements established under this Section may be excused from the requirement for a period of up to three years. However, it is the responsibility of the licensee to document the reasons and justify why the requirement could not be met.~~

~~(8) If a licensee completes more than the required number of continuing education hours during a two year renewal cycle specified in Subsection (2), up to ten hours of the excess may be carried over to the next two-year renewal cycle.~~

~~(9) No education received prior to licensure in Utah may be used towards the continuing education requirements of Subsection (2).]~~

R156-60c-306. License Reinstatement - Requirements.

~~In [addition to the requirements established in] accordance with Subsection 58-1-308(5) and Section R156-1-308[e]g, an applicant for reinstatement of [his license after two years following expiration of that license] licensure more than two years after the date the license expired shall [be required to meet the following reinstatement requirements]:~~

~~(1) [if deemed necessary] upon request, meet with the Board [for the purpose of evaluating] to evaluate the applicant's [current] ability to~~

~~[engage]~~safely and competently ~~[in]~~practice as a clinical mental health counselor, and ~~[to make a determination of]~~determine any additional education, experience, or examination requirements ~~[which will be required]~~ before reinstatement;

(2) upon the recommendation of the Board, establish a plan of supervision under an approved supervisor, which may include up to 4,000 hours of clinical training as an associate clinical mental health counselor extern;

(3) pass the NBCC's National Counseling Examination, ~~[of the National Board for Certified Counselors]~~if ~~[it is determined by]~~the Board determines it~~[that current taking and passing of the examination]~~ is necessary to demonstrate the applicant's ability to ~~[engage]~~safely and competently ~~[in]~~practice as a clinical mental health counselor;

(4) pass the NBCC's National Clinical Mental Health Counseling Examination, if ~~[it is determined by]~~the Board determines it ~~[that current taking and passing of the examination]~~ is necessary to demonstrate the applicant's ability to ~~[engage]~~safely and competently ~~[in]~~practice as a clinical mental health counselor; and

(5) complete a minimum of 40 hours of continuing education in subjects determined by the Board as necessary to ensure the applicant's ability to ~~[engage]~~safely and competently ~~[in]~~practice as a clinical mental health counselor.

~~**R156-60e-401. Requirements to be Qualified as a Clinical Mental Health Counselor Training Supervisor.**~~

~~— In accordance with Subsections 58-60-405(1)(e) and (f), in order for an individual to be qualified as a clinical mental health counselor training supervisor, the individual shall have the following qualifications:~~

~~— (1) be currently licensed in good standing in a profession set forth for a supervisor under Subsection 58-60-405(1)(e) in the state in which the supervised training is being performed;~~

~~— (2) have engaged in lawful practice of mental health therapy as a physician, clinical mental health counselor, psychiatrist, psychologist, clinical social worker, registered psychiatric mental health nurse specialist, or marriage and family therapist for not fewer than 4,000 hours in a period of not less than two years prior to beginning supervision activities; and~~

~~— (3) be employed by or have a contract with the mental health agency that employs the supervisee, but not be employed by the supervisee, nor be employed by an agency owned in total or in part by the supervisee, or in which the supervisee has any controlling interest.~~

~~**R156-60e-402. Duties and Responsibilities of a Supervisor of Clinical Mental Health Counselor.**~~

~~— The duties and responsibilities of a licensee providing supervision to an individual completing supervised clinical mental health counselor training requirements for licensure as a clinical mental health counselor are to:~~

~~— (1) be professionally responsible for the acts and practices of the supervisee which are a part of the required supervised training;~~

~~— (2) be engaged in a relationship with the supervisee in which the~~

~~supervisor is independent from control by the supervisee and in which the ability of the supervisor to supervise and direct the practice of the supervisee is not compromised;~~

~~— (3) be available for advice, consultation, and direction consistent with the standards and ethics of the profession and the requirements suggested by the total circumstances including the supervisee's level of training, diagnosis of patients, and other factors known to the supervisee and supervisor;~~

~~— (4) provide periodic review of the client records assigned to the supervisee;~~

~~— (5) comply with the confidentiality requirements of Section 58-60-114;~~

~~— (6) monitor the performance of the supervisee for compliance with laws, standards, and ethics applicable to the practice of clinical mental health counseling and report violations to the Division;~~

~~— (7) supervise only a supervisee who is an employee of a public or private mental health agency;~~

~~— (8) submit appropriate documentation to the Division with respect to all work completed by the supervisee evidencing the performance of the supervisee during the period of supervised clinical mental health counselor training, including the supervisor's evaluation of the supervisee's competence in the practice of clinical mental health counseling;~~

~~— (9) supervise not more than three supervisees at any given time unless approved by the Board and Division; and~~

~~— (10) assure each supervisee is licensed as a licensed associate clinical mental health counselor or licensed associate clinical mental health counselor extern prior to beginning the supervised training of the supervisee as required under Subsection 58-60-405(1)(e) and (f).]~~

R156-60c-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) acting as a supervisor or accepting supervision duties of a supervisor without complying with or ensuring [~~the~~] compliance with the requirements of Sections [~~R156-60c-401 and R156-60c-402~~]R156-60-302 and R156-60c-302a;

(2) engaging in the supervised practice of mental health therapy [~~when~~]while not in compliance with [~~Subsections R156-60c-401(3) and R156-60c-402(7)~~]Sections R156-60-302 or R156-60c-302a;

(3) engaging in [~~and~~]or aiding or abetting conduct or practices [~~which~~]that are dishonest, deceptive, or fraudulent;

(4) engaging in or aiding or abetting deceptive or fraudulent billing practices;

(5) failing to establish and maintain appropriate professional boundaries with a client or former client;

(6) engaging in dual or multiple relationships with a client or former client in which there is a risk of exploitation or potential harm to the client;

(7) engaging in sexual activities or sexual contact with a client with or without client consent;

(8) engaging in sexual activities or sexual contact with a former client within two years of documented termination of services;

(9) engaging in sexual activities or sexual contact at any time with a former client who is especially vulnerable or susceptible to being disadvantaged because of the client's personal history, current mental status, or any condition [~~which~~]that could reasonably be expected to place the client at a disadvantage recognizing the power imbalance [~~which~~]that exists or may exist between the counselor and the client;

(10) engaging in sexual activities or sexual contact with a client's relative[s] or other individual[s] with whom the client maintains a relationship, [~~when~~]if that individual is especially vulnerable or susceptible to being disadvantaged because of [~~his~~]personal history, current mental status, or any condition [~~which~~]that could reasonably be expected to place that individual at a disadvantage recognizing the power imbalance [~~which~~]that exists or may exist between the counselor and that individual;

(11) engaging in physical contact with a client [~~when~~]if there is a risk of exploitation or potential harm to the client resulting from the contact;

(12) engaging in or aiding or abetting sexual harassment or any conduct [~~which~~]that is exploitive or abusive with respect to a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(13) failing to render impartial, objective, and informed services, recommendations or opinions with respect to custodial or parental rights, divorce, domestic relationships, adoptions, sanity, competency, mental health, or any other determination concerning an individual's civil or legal rights;

(14) exploiting a client for personal gain;

(15) using a professional client relationship to exploit a person that is known to have a personal relationship with a client for personal gain;

(16) failing to maintain appropriate client records for a period of not less than ten years from the documented termination of services to the client;

(17) failing to obtain informed consent from the client or legal guardian before taping, recording, or permitting third party observations of client care or records;

(18) failing to cooperate with the Division during an investigation; and

(19) failing to abide by the provisions of the American Mental Health Counselors Association Code of Ethics, [~~last amended March 2010~~] 2020, which is adopted and incorporated by reference.

KEY: licensing, counselors, mental health, clinical mental health counselor

Date of Enactment or Last Substantive Amendment: [~~January 7, 2016~~] 2020

Notice of Continuation: September 5, 2019

Authorizing, and Implemented or Interpreted Law: 58-60-401; 58-1-106(1) (a); 58-1-202(1) (a)

