

State of Utah  
Administrative Rule Analysis  
Revised June 2022

OAR File No. 55082

DATE FILED: 11-15-2022

**NOTICE OF PROPOSED RULE**

TYPE OF RULE: New \_\_\_; Amendment ; Repeal \_\_\_; Repeal and Reenact \_\_\_

Title No. - Rule No. - Section No.

Rule or Section Number:

R156-60c

Filing ID: Office Use Only

**Agency Information**

1. Department:	Department of Commerce	
Agency:	Division of Professional Licensing	
Room number:		
Building:	Heber M. Wells Building	
Street address:	160 East 300 South	
City, state and zip:	Salt Lake City UT 84111-2316	
Mailing address:	PO Box 146741	
City, state and zip:	Salt Lake City UT 84114-6741	
Contact persons:		
Name:	Phone:	Email:
Jana Johansen	801-530-6628	janajohansen@utah.gov

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 (Why is the agency submitting this filing?):**  
This filing updates the rule to conform to statutory amendments made by HB 283 and SB 43 during the 2022 General Legislative Session and makes certain formatting changes for clarity.

**4. Summary of the new rule or change (What does this filing do? If this is a repeal and reenact, explain the substantive differences between the repealed rule and the reenacted rule):**  
The proposed amendments to Section R156-60c-102: (1) update the definition of "equivalent field" as used in Section 58-60-405 by specifying the required semester or quarter credit hours and including professional counseling ethics as an acceptable course; and (2) spell out the reference to DSM. The proposed amendments to Section R156-60c-302a update the rule in accordance with HB 283 by referencing the minimum experience hours under Subsections 58-60-405(1)(d) and (e). Additionally, nonsubstantive formatting changes are made throughout the rule to streamline and update the rule in accordance with the current edition of the OAR's Rulewriting Manual, and to update the Division's name in accordance with statutory changes made by SB 43.

**Fiscal Information**

**5. Provide an estimate and written explanation of the aggregate anticipated cost or savings to:**

**A) State budget:**  
The Division estimates that these proposed amendments will have no measurable impact on state budget revenues or expenditure because the amendments only conform the rule to the statutory changes made by HB 283 and SB 43 and will not impact existing state government practices or procedures.

**B) Local governments:**  
The Division estimates that these proposed amendments will have no measurable impact on local government revenues or expenditure as none of the amendments are expected to impact local government practices or procedures.

**C) Small businesses ("small business" means a business employing 1-49 persons):**  
The Division does not expect small businesses to be impacted by the proposed amendments because the amendments only conform the rule to the statutory changes made by HB 283 and SB 43 and streamline and update the rule for clarity.

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

The Division does not expect non-small businesses to be impacted by the proposed amendments because the amendments only conform the rule to the statutory changes made by HB 283 and SB 43 and streamline and update the rule for clarity.

**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 Division does not expect other persons to be impacted by the proposed amendments because the amendments only conform the rule to the statutory changes made by HB 283 and SB 43 and streamline and update the rule for clarity.

**F) Compliance costs for affected persons** (How much will it cost an impacted entity to adhere to this rule or its changes?):

As described in paragraph 5.E for other persons, the proposed amendments are not expected to result in 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	FY2023	FY2024	FY2025
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
<b>Total Fiscal Cost</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
Fiscal Benefits	FY2023	FY2024	FY2025
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
<b>Total Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>
<b>Net Fiscal Benefits</b>	<b>\$0</b>	<b>\$0</b>	<b>\$0</b>

**H) Department head comments on fiscal impact and approval of regulatory impact analysis:**

The Executive Director of the Department of Commerce, Margaret W. Busse, has reviewed and approved this fiscal analysis.

The Division of Professional Licensing ("Division") propose amendments to R156-60c, the Clinical Mental Health Counselor Licensing Act Rule. Amendments to the rule are proposed to conform it to statutory amendments made by HB 283 and SB 43 during the 2022 General Legislative Session. Many of the amendments are to updated terms with college credits. Also, the Division has made formatting changes throughout the rule to conform the rule to the Office of Administrative Rules' Formatting Manual in accordance with Executive Orders 2021-1 and 2021-12.

**Small Businesses (less than 50 employees):**

The Division finds that will not be a fiscal impact for small businesses. The rule changes are to conform the rule to the statutory changes made by 2022 HB 283 and SB 43 to streamline and update the rule for clarity. The changes are to update the rule to establish operating standards that encompass current statutory requirements and practices in the profession. Further, the Division does not foresee any negative impact on small businesses since the grammatical amendments are made to make the rule comport to the Office of Administrative Rules *Rule Writing Manual*.

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

The Division finds that the non-small businesses in the Utah will not suffer a negative fiscal impact from the proposed rule amendments. However, these amendments will have no expected fiscal impact for non-small businesses in Utah for the same rationale as described above for small businesses. Further, any of these costs are either inestimable, for the reasons stated above, or there is no fiscal impact.

#### Citation Information

**6. Provide citations to the statutory authority for the rule. If there is also a federal requirement for the rule, provide a citation to that requirement:**

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

**Incorporations by Reference Information**

**7. Incorporations by Reference** (if this rule incorporates more than two items by reference, please include additional tables):

**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*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Issue Date</b>	
<b>Issue or Version</b>	

**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*):

<b>Official Title of Materials Incorporated (from title page)</b>	
<b>Publisher</b>	
<b>Issue Date</b>	
<b>Issue or Version</b>	

**Public Notice Information**

**8. 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. See Section 63G-3-302 and Rule R15-1 for more information.)

<b>A) Comments will be accepted until:</b>		<b>01/03/2023</b>
<b>B) A public hearing (optional) will be held:</b>		
<b>On (mm/dd/yyyy):</b>	<b>At (hh:mm AM/PM):</b>	<b>At (place):</b>
12/20/2022	9:00 AM	Rule hearing will be held in Conference room 475 in Heber Wells Building, 160 East 300 South - 4th floor, Salt Lake City, Utah and also conducted electronically via Google Meet:  Google Meet information:  Meeting link <a href="https://meet.google.com/uvt-skdj-eip">meet.google.com/uvt-skdj-eip</a>  Join by phone (US) +1 224-513-0291 PIN: 895025220

**9. This rule change MAY become effective on:** **01/10/2023**

**NOTE:** The date above is the date the agency anticipates making the rule or its changes effective. It is NOT the effective date.

**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.

<b>Agency head or designee and title:</b>	Mark B. Steinagel, Division Director	<b>Date:</b>	<b>11/15/2022</b>
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R156. Commerce, [~~Occupational and~~] Professional Licensing.

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

R156-60c-101. Title - Authority - Organization and Relationship to Rule R156-1.

(1) This rule is known as the "Clinical Mental Health Counselor Licensing Act Rule." [~~-~~]

(2) This rule is adopted by the Division under the authority of Subsection 58-1-106(1)(a) to enable the Division to administer Title 58, Chapter 60, Part 4, Clinical Mental Health Counselor Licensing Act.

(3) The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.

**R156-60c-102. Definitions.**

~~[In addition to the]~~ The following rule definitions supplement the definitions in ~~[regarding clinical mental health counseling in]~~ Title 58, Chapter[s] 1, Division of Professional Licensing Act and Title 58, Chapter [and] 60, Mental Health Professional Practice Act ~~[as used in Title 58, Chapters 1 and 60, the following rule definitions supplement the statutory definitions]~~:

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

(2) "Internship" means [~~-~~]  
~~—(a)—~~ one or more courses completed as part of a program at an accredited school:

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

(3) "Practicum" means [~~-~~]  
~~—(a)—~~ one or more courses completed as part of a program at an accredited school:

([+]~~a~~) 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~~)~~b~~ under supervision provided by a qualified mental health training supervisor as defined in ~~[Section]~~ Subsection R156-60c-302a(3) ~~[(a) through R156-60c-302a(3)(e)]~~.

(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 three semester or four quarter credit hours of 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] Diagnostic and Statistical Manual maladaptive and psychopathological  
behavior; [~~and~~]

(ix) research and program evaluation; and

(x) professional counseling orientation and ethical practice; 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.

(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-103. Authority Purpose.~~

~~This rule is adopted by the Division under the authority of Subsection 58-1-106(1) to enable the Division to administer Title 58, Chapter 60, Part 4.~~

~~R156-60c-104. Organization Relationship to Rule R156-1.~~

~~The organization of this rule and its relationship to Rule R156-1 is as described in Section R156-1-107.]~~

**R156-60c-302a. Qualifications for Licensure - Supervised Training Requirements.**

(1) The minimum 3,000 hours of 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 Section R156-60-302 shall be completed:

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

~~(b)~~] while the applicant is licensed as an [licensed] associate clinical mental health counselor;

[(e)b] while the applicant is a W-2 employee, as defined in Subsection R156-60-102(5), of a public or private agency engaged in mental health therapy; and

[(d)c] under a program of supervision by a supervisor who meets the requirements of Subsection (3) and Section R156-60-302.

(2) An applicant for licensure as a clinical mental health counselor who is not seeking licensure by endorsement based upon licensure in another jurisdiction, and who has completed [the] in whole or in part [~~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 the applicant demonstrates, by evidence satisfactory to the Division and Board, that the training is equivalent to and [must] meets the requirements for training under this [§] section and Subsections 58-60-405(1)(d) and 58-60-405(1)(e).

(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, or 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]~~ be licensed in good standing and engaged in the lawful practice of mental health therapy for at least 4,000 hours in the two consecutive years before beginning supervision;

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

(ii) comply with Subsection 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-302b. Qualifications for Licensure - Examination Requirements.**

~~[In accordance with]~~ Under Subsection 58-60-405(1) (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).

#### **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.]~~

(1) An individual whose educational degree has a deficiency as defined in Subsection R156-60c-102(1), in no more than 12 semesters or 18

quarter credits, may complete the missing coursework post-degree to obtain licensure if:

(a) full credit is awarded;

(b) all courses are taken through one institution; and

(c) the coursework is obtained from a master's or doctoral program in:

(i) clinical mental health counseling, clinical rehabilitation counseling, or counselor education and supervision, if the program is accredited by the Council for Accreditation Counseling and Related Education Programs (CACREP); or

(ii) clinical mental health counseling or an equivalent field as defined in Subsection R156-60c-102(4), if the program is affiliated with an institution that has accreditation recognized by the Council for Higher Education Accreditation (CHEA).

(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-303. Renewal Cycle - Procedures.**

(1) ~~[In accordance with]~~ Under Subsection 58-1-308(1), the renewal date for the two-year renewal cycle ~~[applicable to]~~ for licenses under Title 58, Chapter 60, Mental Health Professional Practice Act is established ~~[by rule]~~ in Section R156-1-308a.

(2) Renewal procedures shall be in accordance with ~~[Section]~~ Sections R156-1-308 ~~[e]~~ b through R156-1-308(1) and R156-60c-306.

#### **R156-60c-304. Continuing Education.**

~~[(1) In accordance with]~~ Under Section 58-60-105, the continuing professional education requirements for a clinical mental health counselor licensed under Title 58, Chapter 60, Part 4, Clinical Mental Health Counselor Licensing Act are established in Section R156-60-105.

#### **R156-60c-306. License Reinstatement - [Requirements] Between Two Years and Five Years After Expiration.**

~~[In accordance with Subsection 58-1-308(5) and Section R156-1-308g, an applicant for reinstatement of licensure more than two years after the date the license expired shall:~~

~~(1) upon request, meet with the Board to evaluate the applicant's ability to safely and competently practice as a clinical mental health counselor, and determine any additional education, experience, or examination requirements 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, if the Board determines it is necessary to demonstrate the applicant's ability to safely and competently practice as a clinical mental health counselor;~~

~~(4) pass the NBCC's National Clinical Mental Health Counseling Examination, if the Board determines it is necessary to demonstrate the~~

~~applicant's ability to safely and competently 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 safely and competently practice as a clinical mental health counselor.]~~

Under Subsection 58-1-308(5) and Section R156-1-308g, an applicant for reinstatement of licensure between two years and five years after the date the license expired shall, at the request of the Division, meet with the Board to evaluate the applicant's ability to safely and competently practice as a clinical mental health counselor, and determine any additional education, experience, or examination requirements before reinstatement. Additional requirements, as determined necessary by the Board, may include any one or more of the following:

(1) an established plan of supervision under an approved supervisor, which may include up to 3,000 hours of clinical training as an associate clinical mental health counselor extern;

(2) retake and pass the NBCC's National Clinical Mental Health Counseling Examination or National Counseling Examination, or both; or

(3) complete a minimum of 40 hours of continuing education in subjects determined by the Board.

#### **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 compliance with ~~[the requirements of]~~ Sections R156-60-302 and R156-60c-302a;

(2) engaging in the supervised practice of mental health therapy while not in compliance with Section~~[s]~~ R156-60-302 or R156-60c-302a;

(3) engaging in or aiding or abetting conduct or practices 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 that could reasonably be expected to place the client at a disadvantage recognizing the power imbalance that exists or may exist between the counselor and the client;

(10) engaging in sexual activities or sexual contact with a client's relative or ~~[either]~~ another individual with whom the client maintains a relationship, if that individual is especially vulnerable or susceptible to being disadvantaged because of personal history, current mental status,



or any condition that could reasonably be expected to place that individual at a disadvantage recognizing the power imbalance that exists or may exist between the counselor and that individual;

(11) engaging in physical contact with a client 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 that is exploitive or abusive [~~with respect to~~] concerning a student, trainee, employee, or colleague with whom the licensee has supervisory or management responsibility;

(13) failing to [~~render~~] provide impartial, objective, and informed services, recommendations, or opinions [~~with respect to~~] concerning 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, for personal gain, an individual whom the licensee knows has a [person that is known to have a] personal relationship with [~~a~~] the 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~~] person 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, 2020, which is [~~adopted and~~] incorporated by reference.

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

Date of Enactment or Last Substantive Amendment: [~~November 10, 2020~~] 2023

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)