

State of Utah
Administrative Rule Analysis

NOTICE OF PROPOSED RULE

- * The agency identified below in box 1 provides notice of proposed rule change pursuant to Utah Code Section 63G-3-301.
- * Please address questions regarding information on this notice to the agency.
- * The full text of all rule filings is published in the Utah State Bulletin unless excluded because of space constraints.
- * The full text of all rule filings may also be inspected at the Division of Administrative Rules.

DAR file no:		Date filed:	
State Admin Rule Filing Id:		Time filed:	
	Agency No.	Rule No.	Section No.
Utah Admin. Code Ref (R no.):	R 156	- 60b	-
Changed to Admin. Code Ref. (R no.):	R	-	-

1.	Agency:	Commerce/Division of Occupational and Professional Licensing		
	Room no.:			
	Building:	Heber M. Wells Building		
	Street address 1:	160 East 300 South		
	Street address 2:			
	City, state, zip:	Salt Lake City UT 84111-2316		
	Mailing address 1:	PO Box 146741		
	Mailing address 2:			
	City, state, zip:	Salt Lake City UT 84114-6741		
	Contact person(s):			
	Name:	Phone:	Fax:	E-mail:
	Rich Oborn	801-530-6767	801-530-6511	roborn@utah.gov

(Interested persons may inspect this filing at the above address or at the Division of Administrative Rules during business hours)

2.	Title of rule or section (catchline):	Marriage and Family Therapist Licensing Act Rule		
3.	Type of notice:	New ___; Amendment XXX; Repeal ___; Repeal and Reenact ___		
4.	Purpose of the rule or reason for the change:	During the 2013 General Legislative Session, H.B. 56 was passed which amended provisions of the Marriage and Family Therapist Licensing Act. As a result, the Division and the Marriage and Family Therapist Licensing Board are now proposing amendments to this rule to comply with the provisions of H.B. 56. Additional amendments are also being proposed as requested by the Marriage and Family Therapist Licensing Board.		
5.	This change is a response to comments from the Administrative Rules Review Committee.	No XXXX; Yes ___		
6.	Summary of the rule or change:			

Section 102: In Paragraph (2), the term "directly related to marriage and family therapy" is defined. During the last renewal cycle, the Division received several questions from therapists about what constituted a course that was "directly related to marriage and family therapy". As a result, the Board recommended that the Division further define the term. Adding this paragraph required renumbering of the remaining paragraphs. Section 302b: H.B. 56 removed the phrase "face to face" from Subsection 58-60-305(1)(f) where the license requirement to complete not less than 100 hours of supervision is established. As a result, this filing removes the phrase "face to face" from the rule. Subparagraph (1)(e) is amended to clarify the intent of the experience requirement. Section 304: In Subparagraph (5)(c), the maximum number of contact hours of continuing education recognized for clinical readings, internet, or distance learning courses is increased from ten to 15. The Board recommended this amendment upon review of requests from licensees practicing in rural Utah. Section 502: In paragraph (16) incorporation of the July 1, 2012 edition of the Code of Ethics of the American Association for Marriage and Family Therapy (AAMFT) replaces incorporation of the July 2001 version. The 2012 version adds two paragraphs: Subprinciple 1.14, which addresses online therapy, and Subprinciple 2.7, which addresses the protection of electronic information.

7. Aggregate anticipated cost or savings to:

A) State budget:

Affected: No ___; Yes XX

The Division will incur minimal costs of approximately \$100 to reprint and distribute the rule once the proposed amendments are made effective. Any costs incurred will be absorbed in the Division's current budget.

B) Local government:

Affected: No XXX; Yes ___

The proposed amendments only apply to licensed marriage and family therapists and applicants for licensure as a marriage and family therapist. As a result, the proposed amendments do not apply to local governments.

C) Small businesses ("small business" means a business employing fewer than 50 persons):

Affected: No XXXX Yes

The proposed amendments only apply to licensed marriage and family therapists and applicants for licensure in that classification. Licensees and applicants for licensure may work in a small business; however, the proposed amendments would not directly affect the business.

D) Persons other than small businesses, businesses, 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):

Affected: No Yes XXXXX

The proposed amendments only apply to licensed marriage and family therapists and applicants for licensure in that classification. Increasing the maximum number of contact hours of continuing education recognized for clinical readings, internet, or distance learning courses from ten to 15 is likely to result in a cost savings to licensees that complete continuing education via distance methods. Licensees practicing in rural Utah are likely to benefit the most from this amendment because they travel longer distances to attend live courses. Due to a wide range of circumstances, the Division cannot quantify anticipated savings to licensees.

8. Compliance costs for affected persons:

The proposed amendments only apply to licensed marriage and family therapists and applicants for licensure in that classification. Increasing the maximum number of contact hours of continuing education recognized for clinical readings, internet, or distance learning courses from ten to 15 is likely to result in a cost savings to licensees that complete continuing education via distance methods. Licensees practicing in rural Utah are likely to benefit the most from this amendment because they travel longer distances to attend live courses. Due to a wide range of circumstances, the Division cannot quantify anticipated savings to licensees.

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

This rule filing provides a definition regarding continuing education courses and clarifies and updates other existing provisions. While licensees may experience savings from being allowed to complete continuing education courses online, no fiscal impact to businesses is anticipated.

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

Francine A. Giani, Executive Director

10. 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) (e.g., Section 63G-3-402; Subsection 63G-3-601(3); Article IV) :

Subsection 58-1-106(1)(a)	Subsection 58-1-202(1)(a)	
Section 58-60-301		
11. 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 Division of Administrative Rules; <i>if none, leave blank</i>):		
	First Incorporation	Second Incorporation
Official Title of Materials Incorporated (from title page)	Code of Ethics of the American Association for Marriage and Family Therapy	
Publisher	American Association for Marriage and Family Therapy	
Date Issued		
Issue, or version	July 1, 2012	
ISBN Number (optional)		
ISSN Number (optional)		
Cost of Incorporated Reference		
Action: Adds, updates, or removes	Updates	
(If this rule incorporates more than two items by reference, please attach additional pages)		
12. 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 5:00 p.m. on (mm/dd/yyyy):	12/16/2013	
B) A public hearing (optional) will be held:		
On (mm/dd/yyyy):	At (hh:mm AM/PM):	At (place):
12/13/2013	9:00 AM	160 East 300 South, Conference Room 474, Salt Lake City, Utah
13. This rule change may become effective on (mm/dd/yyyy): 12/23/2013		
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 12(A) above, the agency must submit a Notice of Effective Date to the Division 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.		
14. Indexing information -- keywords (maximum of four, in lower case, except for acronyms (e.g., "GRAMA") or proper nouns (e.g., "Medicaid")); may not include the name of the agency:		
licensing	therapists	
marriage and family therapist		
15. Attach an RTF document containing the text of this rule change (filename):		R156-60b.pro
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 <i>Utah State Bulletin</i> , and delaying the first possible effective date.		
AGENCY AUTHORIZATION		

Agency head or designee, and title:	Mark B. Steinagel, Director	Date (mm/dd/yyyy):	10/9/2013
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eRules v. 2: ProposedRule.doc 09/03/2009 (<http://www.rules.utah.gov/agencyresources/forms/ProposedRule.doc>)

R156. Commerce, Occupational and Professional Licensing.

R156-60b. Marriage and Family Therapist Licensing Act Rule.

R156-60b-102. Definitions.

In addition to the definitions in Title 58, Chapters 1 and 60, as used in Title 58, Chapters 1 and 60, or this rule:

(1) "AAMFT" means the American Association for Marriage and Family Therapy.

(2) "Directly related to marriage and family therapy", as used in R156-60b-304(2)(a), means that the continuing education course meets at least one of the following criteria:

(a) approved by an international, national, or state marriage and family therapy association, national or state marriage and family therapy regulatory board, or a COAMFTE accredited program; or

(b) title, objective, or official description of the course indicates instruction on relationships, couples, or families.

[[2]3) "Face to face supervision" as described in Subsection R156-60b-302a(1)(b)(ii)(G) includes both individual and group supervision.

[[3]4) "Group supervision" means supervision between the supervisor and no more than three supervisees, unless preapproved by the Board.

[[4]5) "Individual supervision" means supervision between the supervisor and one or two supervisees.

[[5]6) "Practicum", as used in R156-60b-302a(1)(b)(ii)(G) means a clinical program of training at an accredited school under general supervision in a setting other than a student's private practice.

[[6]7) "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 R156-60b-502.

R156-60b-302b. Qualifications for Licensure - Experience Requirements.

(1) Pursuant to Subsections 58-60-305(1)(e) and (f), an applicant shall complete marriage and family therapy and mental health therapy training consisting of a minimum of 4,000 hours of supervised training which shall:

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

(b) be completed while the applicant is an employee of a public or private agency engaged in mental health therapy;

(c) be completed under the supervision of a marriage and family therapist supervisor meeting the requirements under Section 58-60-307;

(d) include at least 100 hours of ~~[clinical face to face]~~ direct supervision spread uniformly throughout the training period;

(e) in accordance with Subsection 58-60-305(1)(f), include a minimum of 1,000 hours of mental health therapy of which at least 500 hours are in couple or family therapy with two or more clients participating and at least one physically present; and

(f) hours completed in a group therapy session may count only if the supervisee functions as the primary therapist.

(2) An applicant for licensure as a marriage and family therapist,

who is not seeking licensure by endorsement based upon licensure in another jurisdiction, who has completed all or part of the marriage and family therapy training requirements outside the state, may receive credit for that training completed outside of the state if it is demonstrated by the applicant that the training completed outside the state is equivalent to and in all respects meets the requirements for training under Subsections 58-60-305(1)(e) and (f), and Subsection R156-60b-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.

R156-60b-304. Continuing Education.

(1) In accordance with Section 58-60-105, there is hereby established a continuing education requirement for all individuals licensed under Title 58, Chapter 60, Part 3, as a marriage and family therapist.

(2) During each two year period commencing October 1st of each even numbered year, a marriage and family therapist shall be required to complete not fewer than 40 hours of continuing education directly related to the licensee's professional practice of which:

(a) at least 15 hours must be directly related to marriage and family therapy; and

(b) at least six hours must be in ethics/law, of which at least three hours must be directly related to marriage and family therapy.

(3) The required number of hours of continuing education for an individual who first becomes licensed during the two year period shall be decreased in a pro-rata amount equal to any part of that two year period preceding the date on which that individual first became licensed.

(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 relevant to the practice of a mental health therapist; and

(c) have a method of verification of 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 not less than one hour in formally established classroom courses, seminars, or conferences which meet the criteria listed in Subsection (4) above, and which are approved by, conducted by, or under the sponsorship of universities, colleges or professional associations, societies and organizations representing a licensed profession whose program objectives relate to the practice of mental health therapy;

(b) a maximum of 14 hours per two year period may be recognized for:

(i) teaching courses under Subsection (5)(a); or

(ii) supervision of an individual completing the experience requirement for licensure as a mental health therapist;

(c) a maximum of ~~ten~~ 15 hours per two year period may be recognized for clinical readings, internet or distance learning courses directly related to practice as a mental health therapist; and

(d) a maximum of two hours per two year period may be for continuing education from the Division of Occupational and Professional Licensing.

(6) A licensee shall be responsible for maintaining competent records of completed continuing education for a period of four years.

(7) A licensee requesting a waiver of the continuing education requirement must comply with requirements as established by rule in R156-1-308d.

(8) If a licensee completes more than the required number of hours of continuing education during a two year renewal cycle specified in Subsection (2), up to ten hours of the excess over the required number may be carried over to the next two year renewal cycle. No education received prior to a license being granted may be carried forward to apply towards the continuing education required after the license is granted.

R156-60b-502. Unprofessional Conduct.

"Unprofessional conduct" includes:

(1) acting as a supervisor or accepting supervision of a supervisor without complying with or ensuring the compliance with the requirements of Sections R156-60b-302d and R156-60b-302e;

(2) engaging in the supervised practice of mental health therapy when not in compliance with Subsections R156-60b-302b;

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

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

(5) failing to maintain professional boundaries with a client within two years after the formal termination of therapy or last professional contact, with or without client consent, including engaging in any of the following:

(a) dual or multiple relationships; or

(b) romantic, intimate or sexual relationship;

(6) if engaging in any activity or relationship referenced in Subsection (5) with a client after two years following the formal termination of therapy or last professional contact, failing to demonstrate that there has been no exploitation or injury to the client or to the client's immediate family;

(7) engaging in sexual activities or sexual contact with client's relatives or other individuals with whom the client maintains a relationship when that individual is especially vulnerable or susceptible to being disadvantaged because of the personal history, current mental status, or any condition which could reasonably be expected to place that individual at a disadvantage recognizing the power imbalance which exists

or may exist between the marriage and family therapist and that individual;

(8) physical contact with a client when there is a risk of exploitation or potential harm to the client resulting from the contact;

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

(10) 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;

(11) exploiting a client for personal gain;

(12) use of a professional client relationship to exploit a person that is known to have a personal relationship with a client for personal gain;

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

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

(15) failure to cooperate with the Division during an investigation; and

(16) failure to abide by provisions 1 to 8.8 of the Code of Ethics of the American Association for Marriage and Family Therapy (AAMFT) as adopted by the AAMFT effective July 1, ~~[2001]~~2012, which is adopted and incorporated by reference.

KEY: licensing, therapists, marriage and family therapist

Date of Enactment or Last Substantive Amendment: ~~[August 22, 2011]~~2013

Notice of Continuation: August 31, 2009

Authorizing, and Implemented or Interpreted Law: 58-1-106(1)(a); 58-1-202(1)(a); 58-60-301