

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

Board Meeting Agenda for  
Friday, July 22, 2022, 9 a.m.

The July 22, 2022 meeting of the Texas State Board of Examiners of Marriage and Family Therapists will be held by videoconference call, as authorized under Texas Government Code section 551.127. One or more board members may appear at the scheduled meeting via videoconference call, but the presiding member will be physically present at **Abilene Christian University, Biblical Studies Building, Room 249, 1850 Teague Blvd., Abilene, TX 79601**. This location will be open to the public, but seating is limited to first come, first served.

In lieu of attending in person, members of the public are encouraged to access and participate virtually in this meeting by entering the URL address <https://us02web.zoom.us/j/85669080915> into their web browser. Telephone access numbers and additional videoconference call access information can be found in the attached addendum. An electronic copy of the agenda and meeting materials will be made available at [www.bhec.texas.gov](http://www.bhec.texas.gov) prior to the meeting. A recording of the meeting will be made available on the Council's YouTube channel after the meeting is adjourned. To obtain a copy of the recording, please contact the Council's public information officer at [Open.Records@bhec.texas.gov](mailto:Open.Records@bhec.texas.gov).

For members of the public wishing to give public comment, after the meeting convenes and once the public comment item is reached on the agenda, the presiding member will allow those who are attending in person to give public comment first and then ask those joining by computer to use the "raise hand" feature to indicate who would like to make a public comment. Those individuals who raise their hand will then be unmuted to give public comment. Once all of the individuals with raised hands have been given an opportunity to make public comment, the individuals appearing by telephone will be unmuted and asked whether they would like to make a public comment. Please note that public comment is not intended for a discussion or a question-and-answer session with the board members. Additionally, when making a public comment, please identify yourself and whether you are speaking individually or on behalf of an organization. All public comments will be limited to 3 minutes, unless otherwise directed by the presiding officer. In lieu of providing public comment during the meeting, you may submit written public comments via email to [General@bhec.texas.gov](mailto:General@bhec.texas.gov) in advance of the meeting. Please use the email subject line "Public Comment for (enter date of meeting here) Meeting" to ensure your comments are identified as such and directed accordingly. Only those written public comments received by 5 p.m. on the last business day prior to the meeting will be submitted to the board members for their consideration. No written comments received will be read aloud during the meeting.

Please note that the board may request input during the meeting from any interested parties or members of the public during its discussion of an agenda item.

If you are planning to attend this meeting and need auxiliary aids, services or materials in an alternate format, please contact the Council at least 5 working days before the meeting date. PHONE: (512) 305-7700, EMAIL: [General@bhec.texas.gov](mailto:General@bhec.texas.gov), TTY/RELAY TEXAS: 711 or 1-800-RELAY TX.

The board may go into Executive Session to deliberate any item listed on this agenda if authorized under Texas Open Meetings Act, Government Code, Ch. 551.

The board may discuss and take action concerning any matter on the agenda and in a different order from what it appears herein.

## **MFT BOARD MEETING AGENDA FOR FRIDAY, JULY 22, 2022, 9 A.M.**

1. Call meeting to order.
2. Approval of minutes of the April 29, 2022, videoconference Board meetings.
3. Board review and possible action regarding appeals of application for licensure denials.

4. Board review and possible action regarding agreed orders to be executed by the Board.
5. Board review and possible action regarding contested cases from the State Office of Administrative Hearings (SOAH).
6. Report of agreed orders executed by the Council's Executive Director.
7. Report of cases dismissed by the Council's Executive Director.
8. Status report of quarterly enforcement case activities.
9. Report of compliance with agreed orders.
10. Report from Committee Chairs per Title 22 of the Texas Administrative Code, §801.11(f):
  - A. Report from Ethics Committee Chair Rev. Dr. Scoma.
  - B. Report from Licensing Standards Committee Chair Dr. Merchant.
  - C. Report from Outreach Committee Chair Dr. Merchant.
  - D. Report from Professional Development Committee Chair Mrs. Husband-Thompson.
  - E. Report from Rules Committee Chair Mr. Francis.
11. Discussion and possible action concerning recommendations from the June 3, 2022 Rules Committee meeting, including
  - A. Changes to Title 22 of the Texas Administrative Code (22 TAC), §801.142 *Supervised Clinical Experience Requirements and Conditions*: to correct typographical errors.
  - B. Changes to 22 TAC §801.143 *Supervisor Requirements*: to provide specific details regarding the minimum standards for the 40-hour training required to apply for supervisor status.
12. Discussion and possible action concerning public comment on proposed rules published in April 22, 2022 *Texas Register* regarding 22 TAC:
  - A. §801.44 *Relationships with Clients*: to clarify that the same competency standard applies to emerging areas of practice, for which generally recognized standards for preparatory training do not exist yet.
  - B. §801.261 *Requirements for Continuing Education*: Recommended by the BHEC Standardization Work Group, this new rule consolidates all the continuing education requirements into one section as well as adding and changing some requirements for each renewal cycle. The Board will also review and may take action with regards to the Office of the Governor, Regulatory Compliance Division's review of this proposed rule.
  - C. §§801.58, 801.143, 801.263, 801.264, and 801.266 – related to *Technology-Assisted Services, Supervisor Requirements, Requirements for Continuing Education, Types of Acceptable Continuing Education, and Determination of Clock Hour Credits and Credit Hours Granted* – to remove redundant language now found in §801.261 *Requirements for Continuing Education*.
13. Discussion and possible action regarding jurisprudence exam:
  - A. Discussion and possible action concerning the quarterly summary from the Texas State Board of Examiners of Marriage and Family Therapists' Jurisprudence Exam vendor.
  - B. Discussion and possible action related to changes in the Board's Jurisprudence Exam.
14. Report from the Board Chair concerning current challenges and accomplishments; lawsuits; interaction with stakeholders, state officials, and staff; committee appointments and functions; workload of Board members; conferences; and general information regarding the routine functioning of the Board.
15. Report from the Board's Delegates to the Texas Behavioral Health Executive Council regarding the activities of the Executive Council, including
  - A. The Council's rulemaking actions taken at its May 18, 2022 meeting.
  - B. Other Council updates.

16. Report from the Board Administrator concerning operations, organization, and staffing; workload processing and statistical information; status of rulemaking; customer service accomplishments, inquiries, and challenges; media, legislative, and stakeholder contacts and concerns; special projects; and general information regarding the routine functioning of the program.
17. Discussion and possible action concerning Board response to disaster.
18. Discussion and possible action regarding future priorities and activities of the Board.
19. Public Comment.
20. Announcements and comments not requiring Board action, such as statements regarding conferences and other recent or upcoming events.
21. Adjournment.

This meeting is open to the public. No reservations are required and there is no cost to attend this meeting.

CONTACT: Sarah Faszholz, Board Administrator  
Texas State Board of Examiners of Marriage and Family Therapists  
general@bhec.texas.gov

**Addendum: Additional Videoconference and Telephone Conference Call Information**

When: Jul 22, 2022 09:00 AM Central Time (US and Canada)

Topic: Texas State Board of Examiners of Marriage and Family Therapists' July 22, 2022 meeting

Please click the link below to join the webinar:

<https://us02web.zoom.us/j/85669080915>

Or One tap mobile :

US: +13462487799,, 85669080915# or +12532158782,,85669080915#

Or Telephone:

Dial (for higher quality, dial a number based on your current location):

US: +1 346 248 7799 or +1 253 215 8782 or +1 669 444 9171 or +1 669 900 9128 or +1 312 626 6799 or +1 646 558 8656 or +1 646 931 3860 or +1 301 715 8592

Webinar ID: 856 6908 0915

International numbers available: <https://us02web.zoom.us/j/85669080915>

COMPLAINT NO. 1062-20-0022

IN THE MATTER OF

§ BEFORE THE TEXAS BEHAVIORAL  
§ HEALTH EXECUTIVE COUNCIL  
§  
§ THE TEXAS STATE BOARD  
§ OF EXAMINERS OF  
§ MARRIAGE AND FAMILY  
§ THERAPISTS

DIANA WALL

**AGREED ORDER**

Pursuant to the authority under §507.305 of the Texas Occupations Code, §2001.056 of the Government Code, and 22 Texas Administrative Code §884.12(e), the Executive Director for the Texas Behavioral Health Executive Council (“Council”) hereby approves, ratifies, and enters this Agreed Order with the following Findings of Fact, Conclusions of Law, and Order of the Council, which have been approved and accepted by Diana Wall (“Respondent”) and which constitutes a full settlement and compromise of the complaint currently pending against Respondent before the Council in the above-referenced and numbered matter.

**FINDINGS OF FACT**

1. Respondent is licensed as a marriage and family therapist (#4950) in the State of Texas and is, therefore, subject to the jurisdiction of the Council.
2. From on or about July 30, 2019 to on or about February 03, 2020, Respondent diagnosed clients and issued letters for emotional support animals without conducting a full evaluation.
3. From on or about July 30, 2019 to on or about February 03, 2020, Respondent diagnosed clients and issued letters for emotional support animals without getting an informed consent.

**CONCLUSIONS OF LAW**

1. Respondent voluntarily received a license from the Council and, therefore, is bound by the provisions of Chapters 502 and 507 of the Texas Occupations Code and the Rules of the Council, 22 Texas Administrative Code Parts 35 and 41.
2. Violation of the Council’s Rules is unprofessional conduct and constitutes grounds for the imposition of sanctions under §§502.351, 507.301, and 507.351 of the Texas Occupations Code.
3. Based on the above Findings of Fact, the Council finds that Respondent violated Council

Rules 801.44(c) and (q).

**ORDER**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**

1. Respondent's license is hereby REPRIMANDED.

**WARNING**

**RESPONDENT'S FAILURE TO COMPLY WITH ONE OR MORE TERMS OF THIS ORDER MAY CONSTITUTE A VIOLATION OF 22 TEXAS ADMINISTRATIVE CODE §884.55 REQUIRING FURTHER DISCIPLINARY ACTION.**

**WAIVERS**

On the underlying investigative file, Respondent has waived his or her right to an informal settlement conference, a formal hearing before an Administrative Law Judge at the State Office of Administrative Hearings (SOAH), and judicial review pursuant to Texas Government Code Chapter 2001, in exchange for the conditions set out in this Agreed Order.

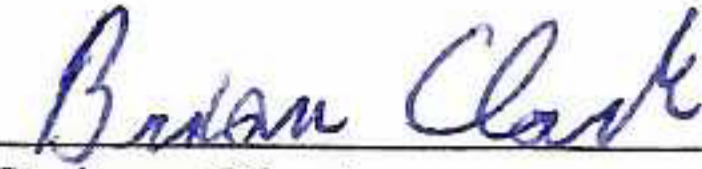
THE RESPONDENT, BY SIGNING THIS ORDER, AGREES TO ITS TERMS, ACKNOWLEDGES UNDERSTANDING OF THE FORMAL NOTICES, FINDINGS OF FACT, AND CONCLUSIONS OF LAW SET FORTH HEREIN AND COVENANTS TO SATISFACTORILY COMPLY WITH THE MANDATES OF THIS ORDER IN A TIMELY MANNER. RESPONDENT FURTHER ACKNOWLEDGES AND AGREES THAT HE OR SHE HAS AGREED TO THIS ORDER UPON THE ADVICE AND CONSENT OF COUNSEL, OR THAT HE OR SHE HAS HAD THE OPPORTUNITY TO HAVE THIS ORDER REVIEWED BY COUNSEL OF HIS OR HER CHOICE.

FOR THE RESPONDENT:

FOR THE STAFF OF THE COUNCIL:



Diana Wall  
Marriage and Family Therapist  
License #4950



Brian Clark  
Texas Bar No. 24099457  
Staff Attorney  
Texas Behavioral Health Executive Council  
333 Guadalupe, Ste. 3-900  
Austin, Texas 78701

DATE SIGNED: 5-11-22

DATE SIGNED: 5/16/22

APPROVED, RATIFIED, AND ENTERED THIS 19<sup>th</sup> DAY OF May, 2022.



Darrel Spinks  
Executive Director  
Texas Behavioral Health Executive Council

**COMPLAINT NO. 2022-00183**

**IN THE MATTER OF**

§  
§  
§  
§  
§  
§

**BEFORE THE TEXAS BEHAVIORAL  
HEALTH EXECUTIVE COUNCIL**

**LAURA RYAN**

**THE TEXAS STATE BOARD  
OF EXAMINERS OF  
MARRIAGE AND FAMILY  
THERAPISTS**

**AGREED ORDER**

Pursuant to the authority under §507.305 of the Texas Occupations Code, §2001.056 of the Government Code, and 22 Texas Administrative Code §884.12(c), the Executive Director for the Texas Behavioral Health Executive Council (“Council”) hereby approves, ratifies, and enters this Agreed Order with the following Findings of Fact, Conclusions of Law, and Order of the Council, which have been approved and accepted by Laura Ryan (“Respondent”) and which constitutes a full settlement and compromise of the complaint currently pending against Respondent before the Council in the above-referenced and numbered matter.

**FINDINGS OF FACT**

1. Respondent is licensed as a marriage and family therapist (#201931) in the State of Texas and is, therefore, subject to the jurisdiction of the Council.
2. From on or about December 1, 2021 to on or about March 12, 2022 Respondent practiced with a delinquent license.

**CONCLUSIONS OF LAW**

1. Respondent voluntarily received a license from the Council and, therefore, is bound by the provisions of Chapters 502 and 507 of the Texas Occupations Code and the Rules of the Council, 22 Texas Administrative Code Parts 35 and 41.
2. Violation of the Council’s Rules is unprofessional conduct and constitutes grounds for the imposition of sanctions under §§502.351, 507.301, and 507.351 of the Texas Occupations Code.
3. Based on the above Findings of Fact, the Council finds that Respondent violated Council Rules 882.21(a) and (c).

**ORDER**

**IT IS HEREBY ORDERED, ADJUDGED, AND DECREED THAT:**



1. Respondent's license is hereby REPRIMANDED.

WARNING

RESPONDENT'S FAILURE TO COMPLY WITH ONE OR MORE TERMS OF THIS ORDER MAY CONSTITUTE A VIOLATION OF 22 TEXAS ADMINISTRATIVE CODE §884.55 REQUIRING FURTHER DISCIPLINARY ACTION.

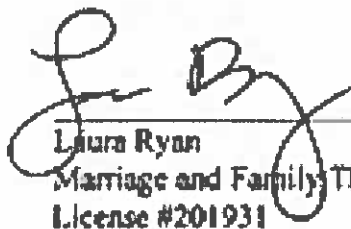
WAIVERS

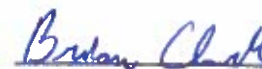
On the underlying investigative file, Respondent has waived his or her right to an informal settlement conference, a formal hearing before an Administrative Law Judge at the State Office of Administrative Hearings (SOAH), and judicial review pursuant to Texas Government Code Chapter 2001, in exchange for the conditions set out in this Agreed Order.

THE RESPONDENT, BY SIGNING THIS ORDER, AGREES TO ITS TERMS, ACKNOWLEDGES UNDERSTANDING OF THE FORMAL NOTICES, FINDINGS OF FACT, AND CONCLUSIONS OF LAW SET FORTH HEREIN AND COVENANTS TO SATISFACTORILY COMPLY WITH THE MANDATES OF THIS ORDER IN A TIMELY MANNER. RESPONDENT FURTHER ACKNOWLEDGES AND AGREES THAT HE OR SHE HAS AGREED TO THIS ORDER UPON THE ADVICE AND CONSENT OF COUNSEL, OR THAT HE OR SHE HAS HAD THE OPPORTUNITY TO HAVE THIS ORDER REVIEWED BY COUNSEL OF HIS OR HER CHOICE.

FOR THE RESPONDENT:

FOR THE STAFF OF THE COUNCIL:

  
\_\_\_\_\_  
Laura Ryan  
Marriage and Family Therapist  
License #201931

  
\_\_\_\_\_  
Brian Clark  
Texas Bar No. 24099457  
Staff Attorney  
Texas Behavioral Health Executive Council  
333 Guadalupe, Ste. 3-900  
Austin, Texas 78701

DATE SIGNED: 5/2/22

DATE SIGNED: 5/2/22

APPROVED, RATIFIED, AND ENTERED THIS 4<sup>th</sup> DAY OF May, 2022.



\_\_\_\_\_  
Darrel Spinks  
Executive Director  
Texas Behavioral Health Executive Council

Rule: 801.142. Supervised Clinical Experience Requirements and Conditions

Action: Proposed Amendment

Comment: These amendments correct typographical errors.

§801.142. Supervised Clinical Experience Requirements and Conditions

An applicant for LMFT must complete supervised clinical experience acceptable to the council.

- (1) The LMFT Associate must have completed a minimum of two years of work experience in marriage and family therapy, which includes a minimum of 3,000 hours of supervised clinical practice. The required 3,000 must include:
  - (A) at least 1,500 hours providing direct clinical services, of which:
    - (i) no more than 500 hours may be provided via technology-assisted services (as approved by the supervisor); and
    - (ii) at least 500 hours must be providing direct clinical services to couples or families.
  - (B) of the 200 hours of council-approved supervision, as defined in §801.2 of this title (relating to Definitions), of which:
    - (i) at least 100 hours must be individual supervision; and
    - (ii) no more than 50 hours may be provided by telephonic services, but there is no limit for hours by **live lived** video.
- (2) The remaining required hours, not covered by subsection (1) above, may come from related experiences, including workshops, public relations, writing case notes, consulting with referral sources, etc.
- (3) An LMFT Associate, when providing services, must receive a minimum of one hour of supervision every week, except for good cause shown.
- (4) Staff may count graduate internship hours exceeding the requirements set in §801.114(b)(8) of this title (relating to Academic Course Content) toward the minimum requirement of at least 3,000 hours of supervised clinical practice under the following conditions.
  - (A) No more than 500 excess graduate internship hours, of which no more than 250 hours may be direct clinical services to couples or families, completed under a Commission on Accreditation for Marriage and Family Therapy Education (COAMFTE) accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.
  - (B) No more than 400 excess graduate internship hours, of which no more than 200 hours may be direct clinical services to couples or families,

completed under a non-COAMFTE-accredited graduate program may be counted toward the minimum requirement of at least 3,000 hours of supervised clinical practice.

- (C) No more than 100 excess graduate internship supervision hours may be counted toward the minimum requirement of at least 200 hours of council-approved supervision.
- (5) An LMFT Associate may practice marriage and family therapy in any setting under supervision, such as a private practice, public or private agencies, hospitals, etc.
- (6) During the post-graduate, supervised clinical experience, both the supervisor and the LMFT Associate may have disciplinary actions taken against their licenses for violations of the Act, the Council Act, or council rules.
- (7) Within 30 days of the initiation of supervision, an LMFT Associate must submit to the council a Supervisory Agreement Form for each council approved supervisor.
- (8) An LMFT Associate may have no more than two council-approved supervisors at a time, unless given prior approval by the council or its designee.
- (9) Except as specified in paragraph (4) (2) of this section, hours of supervision and supervised clinical experience accrued toward an out-of-state LMFT license may be accepted only by endorsement.
- (A) The applicant must ensure supervision and supervised experience accrued in another jurisdiction is verified by the jurisdiction in which it occurred and that the other jurisdiction provides verification of supervision to the council.
- (B) If an applicant has been licensed as an LMFT in another United States jurisdiction for the two years immediately preceding the date the application is received, the supervised clinical experience requirements are considered met. If licensed for any other two-year period, the application will be reviewed to determine whether clinical experience requirements have been met in accordance with council rules, 22 Texas Administrative Code, §882.1 (relating to Application Process).

Rule: 801.143. Supervisor Requirements

Action: Proposed Amendment

Comment: The proposed amendment in subsections (m) and (n) provide more specific details regarding the minimum standards for the 40 hours of education required to apply for supervisor status.

**Note:** changes shown in subsection (h) reflect proposed rules published in April 22, 2022 *Texas Register*: to remove the requirements for maintaining and renewing a licensee's supervisor status from this section, because these same requirements have been added to new §801.261 *Requirements for Continuing Education*.

§801.143. Supervisor Requirements

- (a) To apply for supervisor status, an LMFT in good standing must submit an application and applicable fee as well as documentation of the following:
  - (1) completion of at least 3,000 hours of LMFT practice over a minimum of 3 years; and
    - (A) successful completion of a 3-semester-hour, graduate course in marriage and family therapy supervision from an accredited institution; or
    - (B) a 40-hour continuing education course in clinical supervision; or
  - (2) designation as an approved supervisor or supervisor candidate by the American Association for Marriage and Family Therapy (AAMFT).
- (b) A supervisor may not be employed by the person he or she is supervising.
- (c) A supervisor may not be related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood or adoption) to the person whom he or she is supervising.
- (d) Within 60 days of the initiation of supervision, a supervisor must process and maintain a complete supervision file on the LMFT Associate. The supervision file must include:
  - (1) a photocopy of the submitted Supervisory Agreement Form;
  - (2) proof of council approval of the Supervisory Agreement Form;
  - (3) a record of all locations at which the LMFT Associate will practice;
  - (4) a dated and signed record of each supervision conference with the LMFT Associate's total number of hours of supervised experience, direct client contact hours, and direct client contact hours with couples or families accumulated up to the date of the conference; and
  - (5) a copy of any written plan for remediation of the LMFT Associate.

- (e) Within 30 days of the termination of supervision, a supervisor must submit written notification to the council.
- (f) Both the LMFT Associate and the council-approved supervisor are fully responsible for the marriage and family therapy activities of the LMFT Associate.
  - (1) The supervisor must ensure the LMFT Associate knows and adheres to all statutes and rules that govern the practice of marriage and family therapy.
  - (2) A supervisor must maintain objective, professional judgment; a dual relationship between the supervisor and the LMFT Associate is prohibited.
  - (3) A supervisor may not supervise more than 12 persons at one time.
  - (4) If a supervisor determines the LMFT Associate may not have the therapeutic skills or competence to practice marriage and family therapy under an LMFT license, the supervisor must develop and implement a written plan for remediation of the LMFT Associate.
  - (5) A supervisor must timely submit accurate documentation of supervised experience.
- (g) Supervisor status expires with the LMFT license.
- ~~(h) To maintain council approval, a supervisor must successfully complete the following continuing education each renewal period:~~
  - ~~(1) at least three hours of clinical supervision continuing education; and~~
  - ~~(2) the jurisprudence exam.]~~
- (h)~~(+)~~ A supervisor who fails to meet all requirements for licensure renewal may not advertise or represent himself or herself as a supervisor in any manner.
- (i)~~(+)~~ A supervisor whose license status is other than "current, active" is no longer an approved supervisor. Supervised clinical experience hours accumulated under that person's supervision after the date his or her license status changed from "current, active" or after removal of the supervisor designation will not count as acceptable hours unless approved by the council.
- (j)~~(+)~~ A supervisor who becomes subject to a council disciplinary order is no longer an approved supervisor. The person must:
  - (1) inform each LMFT Associate of the council disciplinary order;
  - (2) refund all supervisory fees received after date the council disciplinary order was ratified to the LMFT Associate who paid the fees; and
  - (3) assist each LMFT Associate in finding alternate supervision.
- (k)~~(+)~~ Supervision of an LMFT Associate without being currently approved as a supervisor is grounds for disciplinary action.
- (l)~~(+)~~ The LMFT Associate may compensate the supervisor for time spent in supervision if the supervision is not part of the supervisor's

responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

(m) At a minimum, the 40-hour continuing education course in clinical supervision, referenced in subsection (a)(1)(B) of this rule, must meet each of the following requirements:

(1) the course must be taught by a licensed marriage and family therapist holding supervisor status issued by the Council;

(2) all related coursework and assignments must be completed over a time period not to exceed 90 days; and

(3) the 40-hour supervision training must include at least:

(A) three (3) hours for defining and conceptualizing supervision and models of supervision;

(B) three (3) hours for supervisory relationship and marriage and family therapist development;

(C) twelve (12) hours for supervision methods and techniques, covering roles, focus (process, conceptualization, and personalization), group supervision, multi-cultural supervision (race, ethnic, and gender issues), and evaluation methods;

(D) twelve (12) hours for supervision and standards of practice, codes of ethics, and legal and professional issues; and

(E) three (3) hours for executive and administrative tasks, covering supervision plan, supervision contract, time for supervision, record keeping, and reporting.

(n) Subsection (m) of this rule is effective May 1, 2023.

## 22 TAC §801.261 Requirements for Continuing Education

Faith Ray <[REDACTED]>

Sat 5/7/2022 4:43 PM

To: rules <rules@bhec.texas.gov>

I am writing in strong opposition to this proposed rule change, making the acquisition of MFT ceus once again a difficult and complicated process. It has just been a few years since the CEU process was streamlined and the responsibility of finding beneficial and appropriate CEUs was given to the licensee. That is one of the best rule changes the Board has ever instituted, making the process much more simple and practical.

I understand the need for ethics and other limited specific CEUS for supervisors etc, but the change that makes us get 50% of CEUs for educational entities is unneeded and frankly not very smart. I have no idea why this change was recommended, but as a supervisor I can tell you that this is a "solution in search of a problem."

Please do not make this complicated and ill-considered change. We MFTs can make these decisions ourselves. If, during an audit, an inappropriate CEU is found, then simply disallow it.

Respectfully,

**Faith K. Ray, M.S.**

Licensed Professional Counselor  
Licensed Marriage and Family Therapist  
Approved Supervisor of LPC and MFT  
(210) 386-3869

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## public comments about the CEU adjustments proposed by BHEC

Dr. Leslie Hayes <[REDACTED]>

Wed 5/18/2022 9:33 PM

To: rules <rules@bhec.texas.gov>

Hello, I am a licensed MFT in the state and I have some questions/comments about portions of the new proposed CEU requirements and the information that addresses these requirements.

The parts I am most concerned about are below and I will place my questions or concerns directly following the exact language I pulled from the BHEC site.

(1) A LMFT must complete 30 hours of continuing education during each renewal period that they hold a license. The 30 hours of continuing education must include 6 hours in ethics and 3 hours in cultural diversity or competency.

I get the need for the 6 hours/2year renewal period of ethics. The 3 hours of "cultural diversity or competency" is less clear to me

(3) A licensee may carry forward to the next renewal period, a maximum of 10 hours accrued during the current renewal period if those hours are not needed for renewal.

(b) Special Continuing Education Requirements. The special continuing education requirements set out in this subsection may be counted toward the minimum continuing education hours required under subsection (a) of this section.

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(3) A licensee who provides telehealth services must complete 2 hours of continuing education in technology-assisted services. Is this 2 hours in tech-assisted services per 2year renewal period or simply 2hours period?

(c) Acceptable ethics hours include, but are not limited to continuing education on:

(1) state or federal laws, including agency rules, relevant to the practice of marriage and family therapy; understood—this is unchanged

(2) practice guidelines established by local, regional, state, national, or international professional organizations; I am not clear on how "international professional organizations" have capacity to provide "practice guidelines" for someone who does not practice internationally. I don't understand this option for ethics-related trainings or development

(4) training or education intended to assist licensees in determining appropriate decision-making and behavior, improve consistency in or enhance the professional delivery of services, and provide a minimum acceptable level of practice. I sincerely wish opportunities were more available in this category, but sadly, what I have seen/taken in this area is impacted by trainers or presenters who are not familiar with my state's laws or how practicing in rural settings creates unique circumstances on many of the requirements under which I practice.

(d) Acceptable cultural diversity or competency hours include, but are not limited to continuing education regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion,

culture, sexual orientation, and socio-economic status.

(e) Acceptable Continuing Education Activities.

(1) All continuing education hours must have been received during the renewal period unless allowed under subsection (a)(3) of this section, and be directly related to the practice of marriage and family therapy;

(2) The Council shall make the determination as to whether the activity claimed by the licensee is directly related to the practice of marriage and family therapy. So, this says the **council** makes the determination of whether what is or is not related both to the “acceptable cultural diversity or competency” AND to whether or not the CEU hours a licensee claims is “directly related to the practice of marriage and family therapy” –that’s an intersection that could be interpreted in a variety of ways, depending upon the views and expectation of the person[s] making that determination. I would ask for a good deal more guidance on this particular adjustment to this section of the Code.

(3) Except for hours claimed under subsection (h) of this section, all continuing education hours obtained must be designated by the provider in a letter, email, certificate, or transcript that displays the licensee's name, topic covered, date(s) of training, and hours of credit earned.

(4) Multiple instances or occurrences of a continuing education activity may not be claimed for the same renewal period. Not sure what this means – that licensees can’t double-dip and claim a given activity for both ethics and one of the required “acceptable cultural diversity or competency” areas within a single renewal period? This seems artificially complicated and potentially a requirement a licensee may violate without even knowing they are doing so.

(f) Licensees must obtain at least fifty percent of their continuing education hours from one or more of the following providers. If your objective is to make it ‘easier’ for licensees to obtain appropriate trainings or development that will enable offering excellent and ethical services to clients, this specific limitation appears to fail that objective. Shouldn’t ALL training licensees obtain be relevant to the populations they serve? I don’t see this as guidance—I see it as a narrowing of the field of realistic options due to the strictures on where and who and formats of what may satisfy these limitations.

It’s hard enough to find quality options about topics that are relevant to the actual populations served, as well as expand or strengthen a licensee’s professional identity and skill level. Additionally, being restricted in travel and budgetary realities, means that simply attending a professional [state] association’s annual meeting in a state the size of Texas, would take care of most of the hours, but is not a realistic option for a percentage of the population of providers. Another example of this would be just attending the AAMFT’s annual conference, which can be anywhere, and knocking out all or most of the hour requirements—this is easy to say, but not as simple to do. There are real hardships on some licensees, such as being a caregiver for elderly parents, children, or spouses, reduced mobility and health issues that make travel very

difficult, and financial constraints to contend with-- these impact the feasibility of leaving home to attend in-person events.

With the pandemic, the availability and viability of such trainings closer to home is reduced, and personally I have found that participating in LIVE online trainings on topics, actually offers appropriate and relevant coverage of topics and techniques that indeed will allow me to offer powerful intervention options to real people I see in my practice.

(1)an international, national, regional, state, or local association of medical, mental, or behavioral health professionals; See my comments about this just above

(2)public school districts, charter schools, or education service centers; I was a public school special educator for 21 years prior to starting my 2<sup>nd</sup> career as a mental health provider. I can say the public schools and local Education Service Centers are currently not equipped to provide much in the way of training or development options that will enrich my capacity to serve my clients. Charter schools are a good option to families for educating their children, but those I know of are more likely to need training and guidance about wellness and growth of their students and their families, than they are to offer options that licensees may be able to use for their own growth potential. This is not a helpful option for meeting this 50% requirement. I don't really understand the need FOR the 50% stipulation -it makes staying in compliance harder, and needlessly so, in my view.

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(3)city, county, state, or federal governmental entities; Again, this becomes a potential hardship on the ability to navigate possible offerings, for possible development topics that meet these more restrictive requirements—there does exist an increased “leaning” of organizations that used to offer a wide variety of trainings and development options, that now have all seemed to have jumped onto a far more narrow focus for the current tide of social expressions and cultural flags. Finding something that really does allow me to impact the real people, couples, and families, I actually see in my practice, has become less straightforward—this new restriction does not make this any easier. It actually creates another obstacle to me—in a field that is aging very quickly, losing seasoned providers is a real problem. I am close to considering retirement plans and factors like these really create pressure toward a decision to close my practice rather than continuing to try to jump through additional hoops that seem to have little to no purpose. I simply don't see a reason for these additional elements restricting how licensees continue to expand and enrich themselves as providers in ways that benefit their clients.

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(5)religious or charitable organizations devoted to improving the mental or behavioral health of individuals; or

(6)any provider approved or endorsed by a provider listed herein. Again, these are better options for meeting this level of adjusted expectation, but FINDING what is useful for the development of the provider that also meets the needs of the communities served AND the specified is becoming more difficult

(g)Licensees shall receive credit for continuing education activities according to the number of hours designated by the provider, or if no such designation, on a one-for-one basis with one credit hour for each hour spent in the continuing education activity.

(h)Licensees may claim continuing education credit for each of the following activities:

(1)Passage of the jurisprudence examination. Licensees who pass the jurisprudence examination may claim 1 hour of continuing education in ethics.

(2)Preparing and giving a presentation at a continuing education activity. The maximum number of hours that may be claimed for this activity is 5 hours.

(3)Authoring a book or peer reviewed article. The maximum number of hours that may be claimed for this activity is 5 hours.

(4)Teaching or attending a graduate level course. The maximum number of hours that may be claimed for this activity is 5 hours.

(5)Self-study. The maximum number of hours that may be claimed for this activity is 1 hour. As for "self-study" options, I have purchased and completed self-paced relevant [online] trainings from organizations whose entire focal points are related to improving my ethical/legal use of technology-based services, keeping records secure, and informing clients about how to keep themselves and their children safer in online communities. I have learned a great deal about these services and how to protect client data [HITECH requirements] and stay abreast of the fast changes the technology world throws at us - these companies offer excellent information and formats that are accessible to me at home- and at times I can choose.

By these changes to the CEU rules, I would only be allowed to include a single hour of the hours I devote to engaging in these pursuits. There are exams included in these services that must be passed before credit documentation credit is offered. I devote a good deal of resources [time, money, attention] to finding quality offerings that help me meet my responsibilities to my profession and my clients. I am very particular about where my resources are placed -it is insulting to limit how much of these highly relevant and accessible options, while privileging more questionable and arguably less beneficial to the SPIRIT of the need to keep learning and growing, as if I am incapable of choosing where I meet my development and training needs. A single hour? Continuing education is an absolute must in our profession. I do not shrink from maintaining and stretching my skills - I have high personal expectations for my own ethical standards.

(6)Successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code. Licensees who complete this training may claim 1 hour of continuing education

credit. So I have already taken the human trafficking prevention [or it should be “awareness”, in my capacity, I have little to no way to prevent such a thing, but I do and have given information to parents about the dangers and signs to look for in keeping their children/adolescents safe]

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(i)The Council does not pre-evaluate or pre-approve continuing education providers or hours. I see a conundrum in this –earlier [see the other yellow highlighted area] you said the Council will be the arbiter of what is or what is not allowed to count. Here you are essentially saying we are on our own in finding, choosing, participating in trainings and development opportunities that are relevant to our practice, but knowing that I may make what I consider to be an appropriate choice for my situation, within the limitations of my lived reality, and maintain my documentation of having achieved these trainings and that at some later date, an audit may surface what whomever will be assessing the appropriateness of my choices, but having not made a way for me to seek guidance before investing in an opportunity – is like playing a game of hide-and-seek. *‘We won’t tell you anything except what you choose has to meet all of these stringent but very vague elements and if we don’t agree with you at some future point that this was a good choice at the time, you will be in trouble with the board.*

Frankly, this kind of tone reminds me of the ways the board operated prior to the creation of the BHEC. Most licensees try to meet responsibilities –most people do their best to be their best for their clients. Placing such arbitrary language that actually makes the CEU parts of our work even more onerous—is troubling to me. I don’t really understand why these adjustments were made or are necessary—the way it has been for the last few years seems to have been less restrictive and I appreciated that very much. The preambles were remarkably unhelpful in addressing the WHYs of these changes.

These are my questions and comments—I sincerely hope I can get some input on these issues prior to being expected to follow them.

Thank you,

Leslie Hayes, Ph.D., LMFT

Rule: 801.44. Relationships with Clients.

Action: Proposed Amendment

Comment: Currently this rule requires licensees to be competent in a particular professional service before the licensee provides such a service to a client or offers the service to the general public. The proposed amendment clarifies that the same standard applies in emerging areas of practice, where generally recognized standards for preparatory training do not exist yet. In such emerging areas licensees are also required to ensure the competence of their work and protect the recipients of those services from harm or the potential of harm.

§801.44. Relationships with Clients.

- (a) A licensee must provide marriage and family therapy professional services only in the context of a professional relationship.
- (b) A licensee must make known in writing to a prospective client the important aspects of the professional relationship, including the licensee's status as an LMFT or LMFT Associate, any probationary status or other restrictions placed on the licensee by the council, office procedures, after-hours coverage, fees, and arrangements for payment (which might affect the client's decision to enter into the relationship).
- (c) A licensee must obtain an appropriate consent for treatment before providing professional services. A licensee must make reasonable efforts to determine whether the conservatorship, guardianship, or parental rights of the client have been modified by a court. Before the commencement of therapy services to a minor client who is named in a custody agreement or court order, a licensee must obtain and review a current copy of the custody agreement or court order in a suit affecting the parent-child relationship. A licensee must maintain these documents in the client's record. When federal or state statutes provide an exemption to secure consent of a parent or guardian before providing services to a minor, such as in Texas Family Code, Chapter 32 (relating to Consent to Treatment of Child by Non-Parent or Child), a licensee must follow the protocol set forth in such federal or state statutes.
- (d) A licensee must make known in writing to a prospective client the confidential nature of the client's disclosures and the clinical record, including the legal limitations of the confidentiality of the mental health record and information.
- (e) No commission or rebate or any other form of remuneration may be given or received by a licensee for the referral of clients for professional services. A licensee employed or under contract with a chemical

dependency facility or a mental health facility must comply with the requirements in Texas Health and Safety Code, §164.006 (relating to Soliciting and Contracting with Certain Referral Sources). Compliance with Texas Health and Safety Code, Chapter 164 (relating to Treatment Facilities Marketing and Admission Practices) is not considered a violation of state law regarding illegal remuneration.

- (f) A licensee may not exploit the licensee's position of trust with a client or former client.
- (g) A licensee may not engage in activities that seek to meet the licensee's personal needs instead of the needs of the client.
- (h) A licensee may not provide marriage and family therapy services to family members, personal friends, educational associates, business associates, or others whose welfare might be jeopardized by such a dual relationship.
- (i) A licensee must set and maintain professional boundaries with clients and former clients.
- (j) A licensee may disclose confidential information to medical or law enforcement personnel if the licensee determines there is a probability of imminent physical injury by the client to the client or others or there is a probability of immediate mental or emotional injury to the client.
- (k) In group therapy settings, the licensee must take reasonable precautions to protect individuals from physical or emotional trauma resulting from interaction within the group.
- (l) A licensee must make a reasonable effort to avoid non-therapeutic relationships with clients or former clients. A non-therapeutic relationship is an activity begun by either the licensee, the client, or former client for the purposes of establishing a social, business, or other relationship not related to therapy. A licensee must ensure the welfare of the client or former client if a non-therapeutic relationship arises.
- (m) A licensee may not bill clients or third parties for services not actually rendered or as agreed to in writing.
- (n) A licensee must end a professional relationship when it is reasonably clear the client is not benefiting from it. Upon ending a professional relationship, if the client still requires mental health services, the licensee must make reasonable efforts to provide a written referral to clients for appropriate services and to facilitate the transfer to appropriate care.

- (o) A licensee who engages in technology-assisted services must provide the client with the licensee's license number and information on how to contact the council by telephone, electronic communication, or mail. The licensee must comply with all other provisions of this chapter.
- (p) A licensee may not offer services that are beyond the licensee's professional competency, and the services provided must be within accepted professional standards of practice and appropriate to the needs of the client. In emerging areas in which generally recognized standards for preparatory training do not exist, licensees must take reasonable steps to ensure the competence of their work and to protect clients, research participants, and other affected individuals from the potential for harm.
- (q) A licensee must base all services on an assessment, evaluation, or diagnosis of the client.
- (r) A licensee must evaluate a client's progress on a continuing basis to guide service delivery and must make use of supervision and consultation as indicated by the client's needs.
- (s) A licensee may not knowingly offer or provide professional services to an individual concurrently receiving professional services from another mental health services provider except with that provider's knowledge. If a licensee learns of such concurrent professional services, the licensee must take immediate and reasonable action to inform the other mental health services provider.
- (t) A licensee may not aid or abet the unlicensed practice of marriage and family therapy services by a person required to be licensed under the Act. A licensee must report to the council knowledge of any unlicensed practice.
- (u) A licensee may not enter into a non-professional relationship with a client's family member or any person having a personal or professional relationship with a client, if the licensee knows or reasonably should have known such a relationship could be detrimental to the client.
- (v) A licensee must refrain from providing services when they know or should know that their physical or mental health or lack of objectivity are likely to impair their competency or harm a client or other person with whom they have a professional relationship





GOVERNOR GREG ABBOTT

To: Gloria Canseco, Presiding Officer  
Darrel Spinks, Executive Director  
Patrick Hyde, General Counsel  
Texas Behavioral Health Executive Council

From: Erin Bennett, Director  
Regulatory Compliance Division, Office of the Governor

Date: July 7, 2022

Subject: Proposed Title 22 Texas Administrative Code Section 781.501 (RCD Rule Review #2022-004) and Proposed Title 22 Texas Administrative Code Section 801.261 (RCD Rule Review #2022-005)

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## **I. Syllabus**

The Texas Behavioral Health Executive Council (“council”) proposed new 22 TAC §§781.501 and 801.261, which update and consolidate the continuing education requirements for social work and marriage and family therapy licensees, respectively.<sup>1</sup> The council submitted the proposed rules to the Regulatory Compliance Division (“division”) for review on June 3, 2022. The division invited public comments on the proposed rules for a period ending July 1, 2022, but received no comments. Based on the following analysis, the division has determined that the proposed rules are consistent with state policy, and, thus, proposed new §§781.501 and 801.261 are approved by the division and may be finally adopted and implemented.

## **II. Analysis**

The council was created in 2019 by the passage of House Bill 1501 during the 86th Regular Legislative Session. That bill transferred the licensing and regulatory functions of the Texas State Board of Social Worker Examiners (“social work board”), the Texas State Board of Examiners of Marriage and Family Therapists (“marriage and family therapy board”), the Texas State Board of Examiners of Professional Counselors (“professional counseling board”), and the

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<sup>1</sup> 47 Tex. Reg. 2088 (2022) (to be codified at 22 TAC §781.501) (proposed Apr. 22, 2022) (Tex. Behavioral Health Exec. Council); 47 Tex. Reg. 2098 (2022) (to be codified at 22 TAC §801.261) (proposed Apr. 22, 2022) (Tex. Behavioral Health Exec. Council); Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §781.501), at 2 (on file with the Regulatory Compliance Division of the Office of the Governor); Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §801.261), at 2 (on file with the Regulatory Compliance Division of the Office of the Governor).

Texas State Board of Examiners of Psychologists (“psychology board”) to the new council, but retained those boards as member boards charged with initiating and participating in the substantive regulation of their respective professions.<sup>2</sup> In service of the council’s mission to ensure that behavioral health services and social work practice are provided by qualified and competent practitioners who adhere to established professional standards, House Bill 1501 enacted Section 507.157, Texas Occupations Code, which imbues the council with broad authority to recognize, prepare, or administer required continuing education programs for all of its licensees.<sup>3</sup>

The specific amendments to the continuing education programs for social work and marriage and family therapy licensees in proposed new §§781.501 and 801.261 originated with the council’s Standardization Committee.<sup>4</sup> This committee was established by the council to identify areas where the member boards have similarities and to prepare standardized model rules in order to promote greater efficiencies in agency processes and clearer requirements for all licensees.<sup>5</sup> The Standardization Committee developed the draft continuing education rules that became proposed new §§781.501 and 801.261, and the social work and marriage and family therapy boards voted to propose the rules to the council at their January meetings.<sup>6</sup> The council then approved the rules for proposal, and they were published in the April 22, 2022, issue of the *Texas Register*.<sup>7</sup>

Proposed new §781.501 consolidates the current continuing education requirements for social work licensees found in 22 TAC §§781.508-781.510 and 781.514 into a single rule, while proposed new §801.261 similarly consolidates the current continuing education requirements for

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<sup>2</sup> Acts of 2019, 86th Leg., R.S., ch. 768 (H.B. 1501).

<sup>3</sup> Texas Behavioral Health Executive Council, *Agency Mission and Philosophy*, <https://www.bhec.texas.gov> (last visited July 1, 2022).

<sup>4</sup> Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §781.501), at 4; Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §801.261), at 4.

<sup>5</sup> Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §781.501), at 2; Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §801.261), at 2. The Standardization Committee consists of four council members, one from each member board, and members of the public, e.g. representatives from professional associations, licensees, and members of the public familiar with the professions.

<sup>6</sup> Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §781.501), at 4; Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §801.261), at 4; Texas State Board of Social Worker Examiners, *Minutes of January 7, 2022 Board Meeting*, <https://www.bhec.texas.gov/wp-content/uploads/2022/04/Jan-7-2022-SW-Board-Minutes.pdf> (Jan. 7, 2022), at 2; Texas State Board of Examiners of Marriage and Family Therapists, *Minutes of January 21, 2022 Board Meeting*, <https://www.bhec.texas.gov/wp-content/uploads/2022/04/January-21-2022-MFT-Board-Minutes.pdf> (Jan. 21, 2022), at 3.

<sup>7</sup> Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §781.501), at 4; Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §801.261), at 4. Because they are continuing education rules, proposed new 22 TAC §§781.501 and 801.261 were required to be proposed to the council by the member boards, pursuant to Sections 502.1515(1) (C), 505.2015(1)(C), and 507.153(a)(1)(C), Texas Occupations Code.

marriage and family therapy licensees found in 22 TAC §§801.263, 801.264, and 801.266.<sup>8</sup> The nearly identical proposed rules establish the amount and type of continuing education hours that social work and marriage and family therapy licensees must complete each license renewal period and provide guidance on acceptable continuing education activities. They also contain a new requirement, based on an existing psychology board rule, that a licensee obtain at least fifty percent of any continuing education offered by a provider from certain kinds of organizations and entities listed in the proposed rules.<sup>9</sup> Because this new requirement has the potential to limit the amount of continuing education offered by solo or independent providers, the council identified proposed new §§781.501 and 801.261 as affecting market competition.<sup>10</sup> In addition, any limitation on the acceptable types of and means of obtaining continuing education may generally affect market competition by functioning as both a barrier to participation in the profession and as a driver of decreases in availability and increases in costs of continuing education. Thus, because of the proposed rules' impact on market competition pursuant to Section 57.105(d), Texas Occupations Code, the council submitted them to the division for review.<sup>11</sup>

**A. The division finds that proposed new §§781.501(a)-(d) and 801.261(a)-(d) are consistent with state policy.**

To begin, proposed new §§781.501(a) and (b) and 801.261(a) and (b) establish minimum and special continuing education hour requirements for social work and marriage and family therapy licensees. As under current rules, social work licensees and licensed marriage and family therapists must complete 30 hours of continuing education during each two-year license renewal period, six of which must be in ethics; licensed marriage and family therapist associates must complete 15 hours of continuing education during that same period, six of which must be in ethics.<sup>12</sup> Proposed new §§781.501(a) and 801.261(a) add to these requirements that three of the hours must be in cultural diversity or competency, and

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<sup>8</sup> Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §781.501), at 2; Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §801.261), at 2. The council has proposed the repeal of 22 TAC §§781.508-781.510 and 781.514 and 22 TAC §§801.263, 801.264, and 801.266 concurrent with the proposal of new 22 TAC §§781.501 and 801.261. 47 Tex. Reg. 2090 (2022) (repeal of 22 TAC §§781.508-781.510 and 781.514) (proposed Apr. 22, 2022) (Tex. Behavioral Health Exec. Council); 47 Tex. Reg. 2100 (2022) (repeal of 22 TAC §§801.263, 801.264, and 801.266) (proposed Apr. 22, 2022) (Tex. Behavioral Health Exec. Council).

<sup>9</sup> Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §781.501), at 3; Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §801.261), at 3; Agency Response to Second Request for Additional Information (June 23, 2022), at 1-2 (on file with the Regulatory Compliance Division of the Office of the Governor). The existing psychology board rule after which proposed new 22 TAC §§781.501(f) and 801.261(f) are modeled is 22 TAC §463.35.

<sup>10</sup> Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §781.501), at 5-6; Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §801.261), at 5-6.

<sup>11</sup> *Id.*

<sup>12</sup> 22 TAC §§781.508(a) and (b) and 801.263 contain the current 30-hour and 15-hour minimum continuing education requirements as well as the six-hour ethics requirement.

proposed new §§781.501(b)(1) and 801.261(b)(1) increase the number of hours that a licensee with supervisory status must complete in supervision from three to six.<sup>13</sup> Proposed new §§781.501(c) and (d) and 801.261(c) and (d) contain identical lists of acceptable ethics and cultural diversity or competency hours.

According to council staff, the addition of cultural diversity or competency hours comes from the recognition in the State Health Plan that the state's mental health provider workforce does not reflect the state's growing diversity and the corresponding need for culturally competent mental health care.<sup>14</sup> And, the increase in supervision hours reflects the high degree of importance that the council ascribes to the role of supervisors and is being done to help ensure supervisors provide appropriate supervision.<sup>15</sup> These changes will also better align the continuing education programs for social work and marriage and family therapy licensees with the program for psychology licensees, which requires six hours of continuing education in cultural diversity, and the program for professional counseling licensees, which requires six hours in supervision.<sup>16</sup>

Importantly, the new cultural diversity or competency hours and increased supervision hours may all count toward the 30-hour and 15-hour minimum requirements and will not increase the number of continuing education hours that a licensee must presently complete during each license renewal period. Additionally, the council has afforded licensees maximum flexibility in determining the content of hours that qualify as supervision, ethics, and cultural diversity or competency hours; even the wide range of acceptable hours in proposed new §§781.501(c) and (d) and 801.261(c) and (d) are illustrative but not exhaustive. As mentioned earlier, Section 507.157, Texas Occupations Code, grants the council broad authority to recognize, prepare, or administer mandatory continuing education programs for its licensees. Because the proposed rules' new hour requirements will further licensee competency in priority areas determined by the state and council and in a manner that minimizes their impact on the ability of licensees to obtain continuing education, proposed

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<sup>13</sup> 22 TAC §§781.404(b)(4) and 801.143(h)(1) contain the current three-hour supervision requirement. The council has proposed the repeal of these provisions concurrent with the proposal of new 22 TAC §§781.501 and 801.261. 47 Tex. Reg. 2085 (2022) (amendment to 22 TAC §781.404) (proposed Apr. 22, 2022) (Tex. Behavioral Health Exec. Council); 47 Tex. Reg. 2096 (2022) (amendment to 22 TAC §801.143) (proposed Apr. 22, 2022) (Tex. Behavioral Health Exec. Council).

<sup>14</sup> Texas State Board of Examiners of Marriage and Family Therapists, *Video Recording of January 21, 2022 Board Meeting*, <https://www.youtube.com/watch?v=zm6Of64MKqE> (Jan. 21, 2022), at 1:29:36; Statewide Health Coordinating Council, *2021-2022 Update to the Texas State Health Plan*, at 47, available at <https://www.dshs.state.tx.us/legislative/2021-Reports/2021-2022-Update-Texas-State-Health-Plan.pdf> (last visited July 6, 2022). The Texas State Health Plan is produced by the Texas Statewide Health Coordinating Council to make recommendations to the governor and the legislature to ensure the availability of health care services and facilities to all Texans. Texas Department of State Health Services, *Texas Statewide Health Coordinating Council*, <https://www.dshs.texas.gov/chs/shcc> (last visited July 6, 2022).

<sup>15</sup> Agency Response to Request for Additional Information (June 21, 2022), at 1 (on file with the Regulatory Compliance Division of the Office of the Governor).

<sup>16</sup> 22 TAC §463.35(a) requires six cultural diversity hours for psychology licensees, and 22 TAC §681.141(c) requires professional counseling licensees with supervisory status to complete six hours in supervision.

new §§781.501(a)-(d) and 801.261(a)-(d) are a reasonable exercise of the council's authority in Section 507.157 and consistent with state policy.

While proposed new §§781.501(a)-(d) and 801.261(a)-(d) mirror one another for the most part, proposed new §801.261(b)(2) and (3) additionally require that marriage and family therapy licensees with supervisory status biennially take and pass the jurisprudence examination and that marriage and family therapy licensees who provide telehealth services complete two hours of continuing education in technology-assisted services during each license renewal period. These requirements are already found in current 22 TAC §§801.143(h)(2) and 801.58(d).<sup>17</sup> Given the council's clear statutory authority over continuing education and these proposed provisions' support for the ongoing competency of licensees, they are also consistent with state policy.<sup>18</sup>

**B. The division finds that proposed new §§781.501(f) and 801.261(f) are also consistent with state policy.**

Proposed new §§781.501(f) and 801.261(f) are identical and require that social work and marriage and family therapy licensees obtain at least fifty percent of any continuing education offered by a provider from a broad list of certain kinds of organizations and entities or providers approved or endorsed by such organizations and entities. According to the council, this requirement is intended to make sure that at least some of the continuing education that licensees receive is from sources that have a level of organization and oversight available to ensure the quality of the coursework provided.<sup>19</sup> This requirement will alleviate the risk that licensees receive all of their continuing education from one individual or single source provider that has never been reviewed, edited, or vetted by any other individual or organization.<sup>20</sup> Moreover, facilitating some level of review or oversight over provider-offered continued education in proposed new §§781.501(f) and 801.261(f) appears in line with some of the other types of activities for which licensees may claim continuing education credit in existing 22 TAC §§781.514 and 801.266 and proposed new §§781.501(h) and 801.261(h), including preparing and giving a presentation, authoring a book or peer reviewed article, and teaching or attending a graduate level course. Each of these activities

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<sup>17</sup> The council has proposed the repeal of these provisions concurrent with the proposal of new 22 TAC §§781.501 and 801.261. 47 Tex. Reg. 2094 (2022) (amendment to 22 TAC §801.58) (proposed Apr. 22, 2022) (Tex. Behavioral Health Exec. Council); 47 Tex. Reg. 2096 (2022) (amendment to 22 TAC §801.143) (proposed Apr. 22, 2022) (Tex. Behavioral Health Exec. Council).

<sup>18</sup> The division previously approved the requirement in 22 TAC §801.58(d) that marriage and family therapy licensees who provide telehealth services complete two hours of continuing education in technology-assisted services during each license renewal period. Regulatory Compliance Division Determination Letter for Proposed Title 22 Texas Administrative Code Section 801.58 (RCD Rule Review #2020-016) (Aug. 13, 2020) (on file with the Regulatory Compliance Division of the Office of the Governor).

<sup>19</sup> Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §781.501), at 5; Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §801.261), at 5.

<sup>20</sup> *Id.*

tends to involve some level of peer review or participant feedback regarding the material or training offered.

While the council has received comments expressing concerns about these proposed provisions' potential to limit the amount of continuing education offered by solo or independent providers who do not affiliate with the entities listed in proposed new §§781.501(f) and 801.261(f), the council has crafted the proposed provisions in a manner that balances the promotion of quality coursework through oversight with the preservation of flexibility for licensees to take and offer a wide range of continuing education courses.<sup>21</sup> The council modeled the proposed list of providers after a similar list utilized by the psychology board, but expanded that list to be more encompassing through the inclusion of additional entities, such as religious or charitable organizations devoted to improving the mental or behavioral health of individuals.<sup>22</sup> While the proposed list likely covers many current providers, proposed new §§781.501(f)(6) and 801.261(f)(6) also allow solo or independent providers to become part of the list if they are approved or endorsed by one of the entities listed in §§781.501(f)(1)-(5) and 801.261(f)(1)-(5). And, even if a solo or independent provider chooses not to pursue an approval or endorsement, licensees may still receive up to fifty percent of their continuing education from such a provider.

As previously discussed, Section 507.157, Texas Occupations Code, grants the council broad authority to recognize, prepare, or administer required continuing education programs for its licensees. Contemporaneous with its enactment, the legislature repealed former Sections 505.404 and 502.303, Texas Occupations Code, which contained more detailed continuing education requirements and tasked the boards with developing a process to evaluate and approve all continuing education courses.<sup>23</sup> Given the removal of more prescriptive requirements for how the council is to promote quality continuing education, the council has decided to do so by setting up continuing education programs wherein at least some continuing education must be delivered through or in affiliation with organizations and entities that may exercise some oversight of or review the material or training. This is a reasonable exercise of the council's broad authority, especially when coupled with the inclusivity and flexibility for providers and licensees built into the requirement, and, thus, proposed new §§781.501(f) and 801.261(f) are also consistent with state policy.

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<sup>21</sup> Administrative Record for Proposed 22 TAC §781.501 (RCD Rule Review #2022-004), Public comments (submitted June 3, 2022) (on file with the Regulatory Compliance Division of the Office of the Governor); Administrative Record for Proposed 22 TAC §801.261 (RCD Rule Review #2022-005), Public comments (submitted June 3, 2022) (on file with the Regulatory Compliance Division of the Office of the Governor).

<sup>22</sup> Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §781.501), at 3; Rule Submission Memorandum from the Texas Behavioral Health Executive Council (June 3, 2022) (22 TAC §801.261), at 3; Agency Response to Second Request for Additional Information (June 23, 2022), at 1.

<sup>23</sup> Section 505.404, Texas Occupations Code, *added by* Acts of 1999, 76th Leg., R.S., ch. 388 (H.B. 3155), *and repealed by* Acts of 2019, 86th Leg., R.S., ch. 768 (H.B. 1501); Section 502.203, Texas Occupations Code, *added by* Acts of 1999, 76th Leg., R.S., ch. 388 (H.B. 3155), *and repealed by* Acts of 2019, 86th Leg., R.S., ch. 768 (H.B. 1501).

**C. The division finds that proposed new §§781.501(h) and 801.261(h) are consistent with state policy, too.**

Proposed new §§781.501(h) and 801.261(h) identify activities that social work and marriage and family therapy licensees may complete in order to claim continuing education credit in lieu of receiving training or education from a continuing education provider. The proposed provisions are identical and their lists of acceptable activities include passing the jurisprudence examination, preparing and giving a presentation, authoring a book or peer reviewed article, teaching or attending a graduate level course, completing a human trafficking prevention course, and self-study. Licensees are capped at claiming five hours of credit for presenting, authoring, and teaching or attending a course and one hour for the jurisprudence examination, human trafficking prevention course, and self-study.

While these proposed provisions retain many of the activities in current 22 TAC §§781.514 and 801.266, there are some notable reductions in the types of activities and the amount of credit allowed under the existing rules. With regard to social work licensees, credit will no longer be available for completing a postgraduate training program, serving as a field instructor for a social work intern, or teaching an undergraduate social work course; and, the credit hour caps for teaching and attending graduate courses, presenting, authoring, and passing the jurisprudence examination have all been reduced. And, with respect to marriage and family therapy licensees, credit will no longer be available for providing clinical supervision of a marriage and family therapy intern or licensed marriage and family therapist associate; plus, the credit hour caps for presenting and authoring have been decreased.

The council removed certain activities to prevent “double-dipping,” by which licensees may receive continuing education credit for performing their essential job functions as an instructor or supervisor, or for completing training that also counts for licensure purposes.<sup>24</sup> Likewise, the council reduced the allowable hours for some activities to reflect, in the council’s view, a more appropriate cap and to promote licensees receiving continuing education from multiple sources, which has the potential to enhance and expand licensees’ perspectives on their practices.<sup>25</sup> These are reasonable aims and well within the council’s broad authority in Section 507.157, Texas Occupations Code, to design and make changes to its continuing education programs as it sees fit. Consequently, these proposed provisions are also consistent with state policy.

It is worth noting that the addition of self-study as a means to obtain continuing education credit in proposed new §§781.501(h)(5) and 801.261(h)(5) generated a significant amount of concern and confusion among social work licensees, as reflected in the public comments

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<sup>24</sup> Agency Response to Request for Additional Information (June 21, 2022), at 3-4.

<sup>25</sup> *Id.* at 3-5.

submitted to the council.<sup>26</sup> Many commenters expressed concern that the one-hour cap on self-study will severely limit the number of continuing education hours that a licensee may receive for attending online or pre-recorded courses.<sup>27</sup> However, the council considers self-study to be an entirely new means of obtaining continuing education credit that encompasses activities licensees can complete on their own such as reading research articles or performing independent research.<sup>28</sup> The proposed provisions will not limit or reduce the amount of online or pre-recorded courses that a licensee may complete for continuing education, and, in fact, proposed new §801.261 does not retain the 15-hour cap for licensed marriage and family therapists, and the six-hour cap for licensed marriage and family therapist associates, on continuing education delivered through non-live means which is currently found in 22 TAC §801.263(a) and (b).<sup>29</sup> Thus, this new one-hour self-study allowance actually increases licensees' options for obtaining continuing education and facilitates licensees' participation in their professional markets rather than posing a potential negative effect on market competition.

**D. The division finds that the remaining provisions of proposed new §§781.501 and 801.261 are consistent with state policy.**

Finally, proposed new §§781.501(e), (g), (i), and (j) and 801.261(e), (g), (i), and (j) place general parameters on acceptable continuing education for social work and marriage and family therapy licensees, explain how continuing education hours will be counted, and establish recordkeeping requirements regarding completed continuing education. The proposed provisions also make the council the final arbiter on whether continuing education relates to the practice of social work or marriage and family therapy and state that it is not council policy to pre-evaluate or pre-approve continuing education providers or hours. Because each of these proposed provisions will assist with the council's administration of its continuing education programs and provide notice to licensees of the council's expectations and practices with regard to continuing education, they all support the council's authority in Section 507.157, Texas Occupations Code, and are, thus, consistent with state policy.

**III. Determination**

Based on the above analysis, proposed new §§781.501 and 801.261 are approved by the division and may proceed to final adoption and implementation.

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<sup>26</sup>Administrative Record for Proposed 22 TAC §781.501 (RCD Rule Review #2022-004), Public comments (submitted June 3, 2022).

<sup>27</sup> *Id.*

<sup>28</sup> Agency Response to Request for Additional Information (June 21, 2022), at 5; Agency Response to Second Request for Additional Information (June 23, 2022), at 2.

<sup>29</sup> Agency Response to Request for Additional Information (June 21, 2022), at 5.



Rule: 801.261. Requirements for Continuing Education

Action: Proposed New Rule

Comment: This proposed new rule consolidates all the continuing education requirements contained in multiple rules into this single rule. Additionally, this rule adds and changes some of the requirements for each renewal cycle. For example, LMFTs will now be required to complete three hours of cultural diversity or competency, licensees with supervisor status must now complete six hours in supervision as opposed to three hours previously, and lastly licensees can now claim up to one hour of self-study continuing education credit.

§801.261. Requirements for Continuing Education.

(a) Minimum Continuing Education Hours Required

(1) A LMFT must complete 30 hours of continuing education during each renewal period that they hold a license. The 30 hours of continuing education must include 6 hours in ethics and 3 hours in cultural diversity or competency.

(2) A LMFT Associate must complete 15 hours of continuing education during each renewal period that they hold a license. The 15 hours of continuing education must include 6 hours in ethics and 3 hours in cultural diversity or competency.

(3) A licensee may carry forward to the next renewal period, a maximum of 10 hours accrued during the current renewal period if those hours are not needed for renewal.

(b) Special Continuing Education Requirements. The special continuing education requirements set out in this subsection may be counted toward the minimum continuing education hours required under subsection (a).

(1) A licensee with supervisory status must complete 6 hours of continuing education in supervision.

(2) A licensee with supervisory status must take and pass the jurisprudence examination. One hour of continuing education in ethics may be claimed for passing the jurisprudence examination.

(3) A licensee who provides telehealth services must complete 2 hours of continuing education in technology-assisted services.

(c) Acceptable ethics hours include, but are not limited to continuing education on:

- (1) state or federal laws, including agency rules, relevant to the practice of marriage and family therapy;
  - (2) practice guidelines established by local, regional, state, national, or international professional organizations;
  - (3) training or education designed to demonstrate or affirm the ideals and responsibilities of the profession; and
  - (4) training or education intended to assist licensees in determining appropriate decision-making and behavior, improve consistency in or enhance the professional delivery of services, and provide a minimum acceptable level of practice.
- (d) Acceptable cultural diversity or competency hours include, but are not limited to continuing education regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and socio-economic status.
- (e) Acceptable Continuing Education Activities.
- (1) All continuing education hours must have been received during the renewal period unless allowed under subsection (a)(3), and be directly related to the practice of marriage and family therapy;
  - (2) The Council shall make the determination as to whether the activity claimed by the licensee is directly related to the practice of marriage and family therapy;
  - (3) Except for hours claimed under subsection (h), all continuing education hours obtained must be designated by the provider in a letter, email, certificate, or transcript that displays the licensee's name, topic covered, date(s) of training, and hours of credit earned.
  - (4) Multiple instances or occurrences of a continuing education activity may not be claimed for the same renewal period.
- (f) Licensees must obtain at least fifty percent of their continuing education hours from one or more of the following providers:
- (1) an international, national, regional, state, or local association of medical, mental, or behavioral health professionals;

- (2) public school districts, charter schools, or education service centers;
- (3) city, county, state, or federal governmental entities;
- (4) an institution of higher education accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education;
- (5) religious or charitable organizations devoted to improving the mental or behavioral health of individuals; or
- (6) any provider approved or endorsed by a provider listed herein.
- (g) Licensees shall receive credit for continuing education activities according to the number of hours designated by the provider, or if no such designation, on a one-for-one basis with one credit hour for each hour spent in the continuing education activity.
- (h) Licensees may claim continuing education credit for each of the following activities:
  - (1) Passage of the jurisprudence examination. Licensees who pass the jurisprudence examination may claim 1 hour of continuing education in ethics.
  - (2) Preparing and giving a presentation at a continuing education activity. The maximum number of hours that may be claimed for this activity is 5 hours.
  - (3) Authoring a book or peer reviewed article. The maximum number of hours that may be claimed for this activity is 5 hours.
  - (4) Teaching or attending a graduate level course. The maximum number of hours that may be claimed for this activity is 5 hours.
  - (5) Self-study. The maximum number of hours that may be claimed for this activity is 1 hour.
  - (6) Successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code. Licensees who complete this training may claim 1 hour of continuing education credit.

- (i) The Council does not pre-evaluate or pre-approve continuing education providers or hours.
- (j) Licensees shall maintain proof of continuing education compliance for a minimum of 3 years after the applicable renewal period.

Rule: 801.261. Requirements for Continuing Education

Action: Proposed New Rule

Comment: This proposed new rule consolidates all the continuing education requirements contained in multiple rules into this single rule. Additionally, this rule adds and changes some of the requirements for each renewal cycle. For example, LMFTs will now be required to complete three hours of cultural diversity or competency, licensees with supervisor status must now complete six hours in supervision as opposed to three hours previously, and lastly licensees can now claim up to one hour of self-study continuing education credit.

§801.261. Requirements for Continuing Education.

(a) Minimum Continuing Education Hours Required

- (1) A LMFT must complete 30 hours of continuing education during each renewal period that they hold a license. The 30 hours of continuing education must include 6 hours in ethics and 3 hours in cultural diversity or competency.
- (2) A LMFT Associate must complete 15 hours of continuing education during each renewal period that they hold a license. The 15 hours of continuing education must include 6 hours in ethics and 3 hours in cultural diversity or competency.
- (3) A licensee may carry forward to the next renewal period, a maximum of 10 hours accrued during the current renewal period if those hours are not needed for renewal.

(b) Special Continuing Education Requirements. The special continuing education requirements set out in this subsection may be counted toward the minimum continuing education hours required under subsection (a).

- (1) A licensee with supervisory status must complete 6 hours of continuing education in supervision.
- (2) A licensee with supervisory status must take and pass the jurisprudence examination. One hour of continuing education in ethics may be claimed for passing the jurisprudence examination.
- (3) A licensee who provides telehealth services must complete 2 hours of continuing education in technology-assisted services.

(c) Acceptable ethics hours include, but are not limited to continuing education on:

- (1) state or federal laws, including agency rules, relevant to the practice of marriage and family therapy;
  - (2) practice guidelines established by local, regional, state, national, or international professional organizations;
  - (3) training or education designed to demonstrate or affirm the ideals and responsibilities of the profession; and
  - (4) training or education intended to assist licensees in determining appropriate decision-making and behavior, improve consistency in or enhance the professional delivery of services, and provide a minimum acceptable level of practice.
- (d) Acceptable cultural diversity or competency hours include, but are not limited to continuing education regarding age, disability, ethnicity, gender, gender identity, language, national origin, race, religion, culture, sexual orientation, and socio-economic status.
- (e) Acceptable Continuing Education Activities.
- (1) All continuing education hours must have been received during the renewal period unless allowed under subsection (a)(3), and be directly related to the practice of marriage and family therapy;
  - (2) The Council shall make the determination as to whether the activity claimed by the licensee is directly related to the practice of marriage and family therapy;
  - (3) Except for hours claimed under subsection (h), all continuing education hours obtained must be designated by the provider in a letter, email, certificate, or transcript that displays the licensee's name, topic covered, date(s) of training, and hours of credit earned.
  - (4) Multiple instances or occurrences of a continuing education activity may not be claimed for the same renewal period.
- (f) Licensees must obtain at least fifty percent of their continuing education hours from one or more of the following providers:
- (1) an international, national, regional, state, or local association of medical, mental, or behavioral health professionals;

- (2) public school districts, charter schools, or education service centers;
  - (3) city, county, state, or federal governmental entities;
  - (4) an institution of higher education accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation, the Texas Higher Education Coordinating Board, or the United States Department of Education;
  - (5) religious or charitable organizations devoted to improving the mental or behavioral health of individuals;
  - (6) a licensee with supervisor status; or
  - (7) any provider approved or endorsed by a provider listed herein.
- (g) Licensees shall receive credit for continuing education activities according to the number of hours designated by the provider, or if no such designation, on a one-for-one basis with one credit hour for each hour spent in the continuing education activity.
- (h) Notwithstanding subsection (f) above, licensees may claim continuing education credit for each of the following activities:
- (1) Passage of the jurisprudence examination. Licensees who pass the jurisprudence examination may claim 1 hour of continuing education in ethics.
  - (2) Preparing and giving a presentation at a continuing education activity. The maximum number of hours that may be claimed for this activity is 5 hours.
  - (3) Authoring a book or peer reviewed article. The maximum number of hours that may be claimed for this activity is 5 hours.
  - (4) Teaching or attending a graduate university or college level course. The maximum number of hours that may be claimed for this activity is 5 hours.
  - (5) Self-study. The maximum number of hours that may be claimed for this activity is 1 hour. Self-study is credit that is obtained from any type of activity that is performed by an individual licensee acting alone. Such activities include, but are not limited to, reading materials directly related to the practice of marriage and family therapy. Time spent individually viewing or listening to audio, video, digital, or print media as part of an

organized continuing education activity, program, or offering from a third-party is not subject to this self-study limitation and may count as acceptable continuing education under other parts of this rule.

- (6) Successful completion of a training course on human trafficking prevention described by §116.002 of the Occupations Code. Licensees who complete this training may claim 1 hour of continuing education credit.
- (i) The Council does not pre-evaluate or pre-approve continuing education providers or hours.
- (j) Licensees shall maintain proof of continuing education compliance for a minimum of 3 years after the applicable renewal period.

**Commented [PH1]:** The SW Board included this explanation in the rule in response to numerous commenters that misunderstood this part of the rule. My recommendation would be to include this explanation in the adoption order but not add it to the rule because it creates a much longer rule, but if the Board wishes to include this explanation in the rule to match the SW Board it can.



Rule: 801.58. Technology-Assisted Services.

Action: Proposed Amendment

Comment: This amendment removes the requirement of two hours of continuing education every renewal period for technology assisted services from this rule, because this same requirement has been added to new §801.261, pertaining to requirements for continuing education, where it is more appropriate.

§801.58. Technology-Assisted Services.

- (a) Licensees who provide marriage and family therapy to clients or supervision to supervisees outside the State of Texas must comply with the laws and rules of Texas and of the out-of-state authority which govern the practice of marriage and family therapy.
- (b) Licensees who provide treatment, consultation, and supervision using technology-assisted services must meet the same standards of appropriate practice as licensees who practice in traditional (i.e., in-person) settings.
- (c) In accordance with Texas Occupations Code, §502.251 (relating to License Required), a person may not practice as a marriage and family therapist unless the person holds a license under this chapter or is exempt under Texas Occupations Code, §502.004 (relating to Application of Chapter)
- (d) A licensee may provide technology-assisted services. To ensure the competent delivery of services by technology-assisted means, a licensee must maintain an appropriate level of education, training, or experience in using relevant technology. ~~A licensee who provides technology-assisted services must complete a minimum of two hours of continuing education in technology-assisted services every renewal period.~~
- (e) A licensee may not render therapy using technology-assisted services without complying with the following at the onset of each session:
  - (1) fully verifying the location and identity of the client, to the most reasonable extent possible; and
  - (2) disclosing the identity of the licensee.
- (f) Before providing technology-assisted services, a licensee must determine whether a client is a minor. Upon determining that a client is a minor, and before providing technology-assisted services, a licensee must obtain required consent from a parent or guardian and must verify the identity of the parent, guardian, or other person consenting to the minor's treatment.

- (g) The licensee must determine if technology-assisted service is an appropriate delivery of treatment or supervision, considering the professional, intellectual, or emotional needs of the client or supervisee.
- (h) Informed consent must include, at a minimum, information that defines electronic service delivery as practiced by the licensee and the potential risks and ethical considerations. The licensee must obtain and maintain written or electronic evidence documenting appropriate client informed consent for the use of technology-assisted services. The licensee must ensure that the informed consent complies with other informed consent requirements in this chapter and must include the following:
  - (1) identification of the client, the therapist, and the therapist's credentials;
  - (2) list of services provided by the licensee using technology-assisted services;
  - (3) client agreement that the therapist determines on an on-going basis whether the condition being assessed or treated is appropriate for technology-assisted services;
  - (4) details on security measures taken with the use of technology-assisted services, as well as potential risks to privacy notwithstanding such measures;
  - (5) information regarding secure protocols and back-up plans in case of technical failure;
  - (6) the licensee's credentials or training to engage in technology-assisted services, and contact information;
  - (7) risks and benefits of engaging in the use of technology;
  - (8) emergency procedures to follow when the therapist is not available;
  - (9) information collected and any passive tracking mechanisms used;
  - (10) third-party websites or services used by the licensee to facilitate technology-assisted services; and
  - (11) an explanation of how records are maintained electronically, including encryption type and record security, and the archival storage period for transaction records.

- (i) Therapists who use technology-assisted services must meet or exceed applicable federal and state legal requirements of health information privacy, including compliance with the Health Insurance Portability and Accountability Act of 1996 (HIPAA), Public Law 104-191; The Health Information Technology for Economic and Clinical Health (HITECH) Act, 42 U.S.C. Chapter 156, Subchapter III; Texas Health and Safety Code, Chapter 181 (relating to Medical Records Privacy); and state privacy, confidentiality, and security rules

Rule: 801.143. Supervisor Requirements

Action: Proposed Amendment

Comment: This amendment removes the requirements for maintaining and renewing a licensee's supervisor status from subsection (h) of this rule, because these same requirements have been added to new §801.261, pertaining to requirements for continuing education, where it is more appropriate.

§801.143. Supervisor Requirements

- (a) To apply for supervisor status, an LMFT in good standing must submit an application and applicable fee as well as documentation of the following:
  - (1) completion of at least 3,000 hours of LMFT practice over a minimum of 3 years; and
    - (A) successful completion of a 3-semester-hour, graduate course in marriage and family therapy supervision from an accredited institution; or
    - (B) a 40-hour continuing education course in clinical supervision; or
  - (2) designation as an approved supervisor or supervisor candidate by the American Association for Marriage and Family Therapy (AAMFT).
- (b) A supervisor may not be employed by the person he or she is supervising.
- (c) A supervisor may not be related within the second degree by affinity (marriage) or within the third degree by consanguinity (blood or adoption) to the person whom he or she is supervising.
- (d) Within 60 days of the initiation of supervision, a supervisor must process and maintain a complete supervision file on the LMFT Associate. The supervision file must include:
  - (1) a photocopy of the submitted Supervisory Agreement Form;
  - (2) proof of council approval of the Supervisory Agreement Form;
  - (3) a record of all locations at which the LMFT Associate will practice;

- (4) a dated and signed record of each supervision conference with the LMFT Associate's total number of hours of supervised experience, direct client contact hours, and direct client contact hours with couples or families accumulated up to the date of the conference; and
  - (5) a copy of any written plan for remediation of the LMFT Associate.
- (e) Within 30 days of the termination of supervision, a supervisor must submit written notification to the council.
- (f) Both the LMFT Associate and the council-approved supervisor are fully responsible for the marriage and family therapy activities of the LMFT Associate.
- (1) The supervisor must ensure the LMFT Associate knows and adheres to all statutes and rules that govern the practice of marriage and family therapy.
  - (2) A supervisor must maintain objective, professional judgment; a dual relationship between the supervisor and the LMFT Associate is prohibited.
  - (3) A supervisor may not supervise more than 12 persons at one time.
  - (4) If a supervisor determines the LMFT Associate may not have the therapeutic skills or competence to practice marriage and family therapy under an LMFT license, the supervisor must develop and implement a written plan for remediation of the LMFT Associate.
  - (5) A supervisor must timely submit accurate documentation of supervised experience.
- (g) Supervisor status expires with the LMFT license.
- ~~(h) To maintain council approval, a supervisor must successfully complete the following continuing education each renewal period:~~
- ~~(1) at least three hours of clinical supervision continuing education;~~  
and
  - ~~(2) the jurisprudence exam.~~
- (h)(i) A supervisor who fails to meet all requirements for licensure renewal may not advertise or represent himself or herself as a supervisor in any manner.

- ~~(i)(j)~~ A supervisor whose license status is other than "current, active" is no longer an approved supervisor. Supervised clinical experience hours accumulated under that person's supervision after the date his or her license status changed from "current, active" or after removal of the supervisor designation will not count as acceptable hours unless approved by the council.
- ~~(j)(k)~~ A supervisor who becomes subject to a council disciplinary order is no longer an approved supervisor. The person must:
- (1) inform each LMFT Associate of the council disciplinary order;
  - (2) refund all supervisory fees received after date the council disciplinary order was ratified to the LMFT Associate who paid the fees; and
  - (3) assist each LMFT Associate in finding alternate supervision.
- ~~(k)(l)~~ Supervision of an LMFT Associate without being currently approved as a supervisor is grounds for disciplinary action.
- ~~(l)(m)~~ The LMFT Associate may compensate the supervisor for time spent in supervision if the supervision is not part of the supervisor's responsibilities as a paid employee of an agency, institution, clinic, or other business entity.

Rule: 801.263. Requirements for Continuing Education

Action: Proposed Repeal

Comment: This rule is proposed to be repealed because these same requirements have been added to new §801.261, pertaining to requirements for continuing education, where all licensee continuing education requirements have been consolidated.

~~§801.263. Requirements for Continuing Education.~~

- ~~(a) An LMFT must complete 30 clock hours of continuing education which is acceptable to the council each renewal period. Of the 30 clock hours required for LMFT license renewal, no more than 15 clock hours may be delivered through a learning format that does not accommodate real-time interaction, such as self-study correspondence course or pre-recorded webinar.~~
- ~~(b) An LMFT Associate must complete 15 clock hours of continuing education which is acceptable to the council each renewal period. Of the 15 clock hours required for LMFT Associate license renewal, no more than six clock hours may be delivered through a learning format that does not accommodate real-time interaction, such as self-study correspondence course or pre-recorded webinar.~~
- ~~(c) All licensees are required to complete six hours of ethics each renewal period.~~

Rule: 801.264. Types of Acceptable Continuing Education

Action: Proposed Repeal

Comment: This rule is proposed to be repealed because these same requirements have been added to new §801.261, pertaining to requirements for continuing education, where all licensee continuing education requirements have been consolidated.

~~§801.264. Types of Acceptable Continuing Education. To be acceptable for the purposes of license renewal or satisfaction of disciplinary stipulations, the education must be received from a continuing education provider that:~~

- ~~(1) ensures the education provided is related to the practice of marriage and family therapy;~~
- ~~(2) ensures the individual(s) presenting the information have the necessary experience and knowledge in the topic(s) presented;~~
- ~~(3) verifies attendance of participants and provides participants with a letter or certificate of attendance displaying the licensee's name, topic covered, date course was taken, and hours of credit earned;~~
- ~~(4) maintains all continuing education records and documentation for at least three years; and~~
- ~~(5) provides participants a mechanism for evaluation of each continuing education activity.~~



Rule: 801.266. Determination of Clock Hour Credits and Credit Hours Granted.

Action: Proposed Repeal

Comment: This rule is proposed to be repealed because these same requirements have been added to new §801.261, pertaining to requirements for continuing education, where all licensee continuing education requirements have been consolidated.

~~§801.266. Determination of Clock Hour Credits and Credit Hours Granted. The council credits continuing education activities that meet the criteria §801.264 of this title (relating to Types of Acceptable Continuing Education) on a one-for-one basis with one credit hour for each clock hour spent in the continuing education activity, unless otherwise designated in the provisions below:~~

- ~~(1) Completing the jurisprudence exam once per renewal period may count for one hour of the ethics requirement described in §801.263 (relating to Requirements for Continuing Education).~~
- ~~(2) Hours spent providing clinical supervision of a marriage and family therapy intern or an LMFT Associate may count for no more than one-half of the continuing education required each renewal period.~~
- ~~(3) A presenter of a continuing education activity may earn 1.5 hours for each approved hour of continuing education presented, not to exceed one-half of the continuing education required each renewal period. The same seminar or topic may not be used more than once biennially.~~
- ~~(4) An author of a book or peer-reviewed article which enhances a marriage and family licensee's knowledge or skill may claim continuing education credit not to exceed one-half of the continuing education required each renewal period.~~

15. Summary of Council's Activities

A. The Council's rulemaking actions taken at its May 18, 2022 meeting:

1. Withdrawn rules: Affecting Title 22 of the Texas Administrative Code (22 TAC), §801.305 *Schedule of Sanctions*: to correct error and align with current rules, proposed rules were published in the April 22, 2022 *Texas Register* and voted by the Council to be withdrawn and republished with simplified chart. [Withdrawal of the proposed rules was completed June 6, 2022.](#)
2. Proposed rules: Affecting 22 TAC, the following were approved for publication. A copy of the proposed rules is in the [Council's May 18, 2022 Agenda and Public Meeting Materials.pdf](#), available from the Council's [Meeting Dates, Agendas, and Minutes webpage](#). Staff is working through procedures and preparing the following rules for publication in *Texas Register* with call for public comment. Staff will post notice on the [Board News webpage](#) when the proposed rules have been published, and staff will send an email message to those who subscribe to [Email Updates](#).
  - a. §801.2 *Definitions*: to add a definition for direct clinical services to couples or families, providing greater clarity in the rules.
  - b. §801.43 *Professional Representation*: to clarify how supervisees must represent themselves to clients and the public.
  - c. §801.302 *Severity Level and Sanction Guide*: to clarify and simplify the guide by combining Level Two and Level Three into a single level for suspension of a license for any amount of time and to increase the possible administrative penalty to the maximum amount allowed by law.
  - d. §885.1 *Executive Council Fees*: to establish fees effective through August 31, 2021 and fees effective on September 1, 2023.

B. Other Council updates include but may not be limited to:

1. Effective July 11, the Council's physical and mailing address will be George H.W. Bush State Office Building, 1801 Congress Avenue, Suite. 7.300, Austin, Texas 78701.
2. The Council's [2023-27 Strategic Plan](#) (6/1/2022) posted to the [Council's Forms and Publications webpage](#):