

**Office of the Governor Regulatory  
Compliance Division**

**Rule Submission Memorandum Template  
Updated October 9, 2020**

To: Caleb Gunnels, Counsel for the Regulatory Compliance Division

From: Darrel Spinks, Executive Director, Texas Behavioral Health Executive Council

Date: December 16, 2022

Subject: Rule 681.140, Requirements for Continuing Education

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***Note: This memorandum, the proposed rule, and any amendments should be submitted to the Regulatory Compliance Division as a single, combined PDF.***

The Texas Behavioral Health Executive Council has proposed new rule 22 Texas Administrative Code Section 681.140, as published in the December 16, 2022, issue of the *Texas Register*. The proposed rule may affect market competition and is submitted to the Regulatory Compliance Division for review. The PDF version of the preamble with text of the proposed rule as published in the *Texas Register* is attached to this memorandum.

Include if Applicable: The Texas Behavioral Health Executive Council requests an expedited review of the proposed rule. The next regularly scheduled meeting date for the Texas State Board of Examiners of Professional Counselors is on January 20, 2023. The comment period for the proposed rule will close on January 13th before the next Board meeting so the rule, and any public comments on the rule, will be reviewed at the January 20th meeting. Therefore, an expedited review may be necessary and is requested, so this review may be presented to the Board on January 20th.

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To facilitate the Regulatory Compliance Division's review of the proposed rule, the Texas Behavioral Health Executive Council provides answers to the following questions.

1. Briefly describe the proposed rule.

The proposed rule pertains to the continuing education requirements for Licensed

Professional Counselors. Continuing education is a requirement for the renewal of a license.

2. What is the purpose of the proposed rule?

The proposed new rule consolidates all the continuing education requirements contained in multiple rules, 681.141 – 681.145, into one single rule. Additionally, this rule adds and changes some of the requirements for each renewal cycle. For example, licensees will now be required to complete three hours of cultural diversity or competency. Licensees with supervisor status will be required to complete six hours in supervision, but these hours will count towards the minimum required hours instead of in addition to the required hours. Licensees will be allowed to carry up to 10 unclaimed continuing education hours of from one renewal period to the next, and licensees can now claim up to one hour of self-study continuing education credit.

3. Describe any relevant factual background to the proposed rule and the impetus for the state agency to consider rulemaking.

The Executive Council created a Standardization Committee with the goal of identifying areas where the underlying behavioral health boards have similarities. Once certain areas were identified the Standardization Committee would work to draft model rules for those areas in the hope of standardizing some of those requirements across all the professions. The intent of this standardization effort is to create greater efficiencies in agency processes as well as clearer requirements for all licensees. For example, there are some individuals that hold licenses from more than one Board, so keeping up with the numerous different rules and requirements can be burdensome on both the licensee and agency staff. The Standardization Committee consists of four Executive Council Members, one from each underlying Board, and members of the public, e.g. representatives from professional associations, licensees, and members of the public familiar with these professions.

One of the first areas identified by the Standardization Committee was continuing education. A draft of a single replacement rule was discussed for each of the four Boards. While there was general agreement regarding the framework of the rule, some details for the rule were specific to each Board. For example, the number of hours required for each renewal cycle is currently different for each Board: professional counseling is 24 hours, marriage and family therapy is 30 hours, psychology is 40 hours, and social work is 30 hours; and the proposed rule kept these same requirements. What this proposed rule does is standardize the requirements for which hours or courses will count towards these required hours. Several years in the past some of these Boards, but not all, would preapprove continuing education providers, as a mechanism to ensure the requisite standards for continuing education were met. After the

Sunset Commission's review of these Boards a management action recommended reform of the rules pertaining to approving continuing education providers, and subsequently such rule requirements were repealed and the Boards no longer approve continuing education providers. As a means of vetting the providers of continuing education, but not moving back to the repealed system of the agency reviewing and approving providers, the Standardization Committee reviewed and accepted an alternative approach that is currently in the Psychology Board's rules. The Psychology Board's rule pertaining to continuing education requires licensees to obtain at least fifty percent of their continuing education from an approved provider. Per current 22 Tex. Admin Code Sec. 463.35(f), an approved provider is:

national, regional, state, or local psychological associations; public school districts; regional service centers for public school districts; state or federal agencies; or psychology programs, or counseling centers which host accredited psychology training programs, at regionally accredited institutions of higher education; and other formally organized groups providing professional development that is directly related to the practice of psychology.

The proposed new continuing education rule was modeled after this standard and expanded upon this list of approved providers. Proposed 22 Tex. Admin. Code Sec. 681.140(f) states:

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; (7) a hospital or hospital system, including any clinic, division, or department within a hospital or hospital system; or (8) any provider approved or endorsed by a provider listed herein.

This rule was published for comment and the comment period closed on January 13, 2023, so currently the Executive Council has not received comments on this proposed rule. Numerous comments were received that voiced concerns regarding the proposed new social work and marriage and family therapy continuing education rules. Additionally, the LPC Board voted and approved a

previous version of this continuing education rule to be sent to the Executive Council for review and possible publication in the *Texas Register*. Upon the LPC Board's approval but prior to publication this agency received several comments regarding the approved providers, listed in subsection (f), which either opposed it or requested additional providers be added to the list. These comments raised a potential issue, by the agency only accepting up to fifty percent of the required continuing education hours from providers not on the rule's approved provider list that could have a possible anticompetitive effect because those on the list are able to offer more services, e.g. acceptable hours, to licensees. These comments regarding the new MFT and SW rules, and the previous LPC rule which was not formally proposed, were provided in a previous submission regarding the MFT and SW rules so they have not been included in this submission but they can be provided upon request.

Based on these comments the Executive Council has added two new categories to the provider list in subsection (f), see 22 Tex. Admin. Code Sec. 681.140(f)(6) and (7). The provider list now includes licensees with supervisor status and hospitals and hospital systems. To obtain supervisor status a licensee must be licensed in good standing to practice independently for at least five years and complete additional coursework requirements. An LPC-S is the highest level of licensure an individual may obtain from the LPC Board. An LPC-S is licensed to provide supervision to an LPC – Associate. In order to obtain a license as an LPC, to practice independently, an LPC – Associate must complete 3,000 hours of supervised experience under an LPC-S. This agency entrusts an LPC-S to supervise an LPC-Associate, therefore entrusting an LPC-S to provide continuing education to other licensees was a reasonable addition to the provider list. Additionally, a delayed implementation of the provider list has also been proposed to allow time for licensees to adjust and comply with this requirement, see 22 Tex. Admin. Code Sec. 681.140(k) which makes the effective date of the requirement January 1, 2024.

4. Describe the legal authority for the proposed rule.

- a. Is the proposed rule specifically required or authorized by state statute? If so, list the statute(s).

Yes, see Sections 503.2015(1)(C), 503.351(2), 507.153(1)(C), and 507.157 of the Occupations Code.

- b. Is the proposed rule within the scope of the state agency's general authority to regulate in a given occupation or industry? If so, describe how the proposed rule is within the scope, and reference the applicable state statute(s).

Yes, the Executive Council regulates the professions of marriage and family

therapy, professional counseling, psychology, and social work. Specifically, the Executive Council, in conjunction with the underlying Boards, has specific statutory authority requiring this agency to adopt continuing education requirements for licensees to maintain their licenses.

5. Describe the process that the state agency followed in developing the proposed rule, including any public hearings held, public comments invited, studies conducted, and data collected or analyzed.

As discussed above, the proposed rule is a product of the Executive Council's Standardization Committee which involved discussion and collaboration from agency staff, members of the public, stakeholders or members of associations, licensees, and Council/Board Members. Once the Standardization Committee recommended the rule it was brought before each Board for consideration and approval at a public meeting. Once approved by the Board it was forwarded to the Council for consideration and approval at a public meeting, and once the Council approved the draft rule it was published in the *Texas Register* for formal public comment.

6. Describe the harm that the proposed rule is intended to address and how the proposed rule will address the harm.

Generally speaking, the harm the entire rule is intended to address is to ensure that licensees remain educated and competent in the subject matter they are licensed to practice. Specifically, the part of the rule that may have anticompetitive effects is intended to ensure that the continuing education licensees are receiving is coming from sources that have a level of organization and oversight that ensures the quality of coursework provided; such as, institutions of higher education accredited by a regional accrediting organization recognized by the Council for Higher Education Accreditation.

7. Do any less restrictive alternatives to the proposed rule exist for addressing the same harm? If so, include a comparison of the proposed rule to the alternatives and a justification for not pursuing a less restrictive alternative. If no less restrictive alternatives exist, explain why.

There are possibly less restrictive alternatives that could be considered, such as including other individuals in the approved provider list as the LPC rule commenters requested. But including all licensees and other licensed professionals, such as attorneys, to align with these comments will potentially frustrate the purpose for this part of the rule. To allow licensees to receive all, and not just fifty percent, of their required continuing education from one individual licensee, without supervisor status, or an attorney would mean all of that education would come from a single source that was not reviewed, edited, vetted, or the like by any other source or individual. Therefore, the verification of the quality of such continuing education would be

difficult to determine. Psychology has long since used a similar list of organizations that licensees must obtain continuing education from, see former rule 22 Tex. Admin. Code Sec. 461.11 adopted in 1993 which required one-third of the required hours to come from a national, state, or local association, a university, or the like. Since this requirement has existed in psychology's rules for almost thirty years and there are no known negative impacts caused by this requirement, it is hard to imagine this change will have much, if any, negative impact to the professional counseling continuing education marketplace.

8. Indicate how the proposed rule affects market competition (See Section 57.105(d), Texas Occupations Code).

It creates a barrier to market participation in the state.

It results in higher prices or reduced competition for a product or service provided by or to a license holder in the state.

It both creates a barrier to market participation in the state and results in higher prices or reduced competition for a product or service provided by or to a license holder in the state.

9. Describe the specific impact that the proposed rule will have on market competition and how that effect is consistent with state policy as established by the Legislature in state statute.

As indicated in the previous LPC rule comments, there are some licensees that are solo practitioners and they provide, as part of their business, continuing education courses to other licensees. The rule will no longer allow licensees to receive all of their continuing education from these types of providers, this agency will only count up to fifty percent of these types of course credits towards the total required hours. By not allowing these types of providers, e.g. individual licensees and/or solo practice providers, to provide all of the required continuing education then it could put these types of providers at a disadvantage when compared to those on the approved list, such as universities. If these types of providers can no longer be a one stop shop for all of a licensee's continuing education needs then it could reduce the competition for the types of providers in the market place, or it could increase costs because it will require these type of providers to be reviewed and approved or endorsed by an approved provider, such as a university or professional association, which in turn could result in increased costs to the consumer licensees. To address this concern, licensees with supervisor status have been added to the list providers in the rule, see 22 Tex. Admin. Code Sec. 681.140(f)(6). And a delayed implementation of the provider list has also been proposed to allow time for licensees to adjust and comply with this requirement, see 22 Tex. Admin. Code

Sec. 681.140(k) which makes the effective date of the requirement January 1, 2024. Additionally, as stated above, this requirement has existed in one shape or another in psychology's rules for almost 30 years, so it is difficult to imagine that this rule change will have much of an impact on the current marketplace for continuing education providers to professional counselor licensees.

10. Does the proposed rule relate to a question that is the subject of an opinion request pending before the Office of the Attorney General? Does the proposed rule relate to an opinion previously issued by the Office of the Attorney General?

No.

11. Does the proposed rule relate to a matter on which there is pending litigation or a final court order?

No.

12. Is there anything else that the state agency would like the Regulatory Compliance Division to know about the proposed rule?

No.

*Note: In addition to this memorandum and its required attachments, the state agency must provide copies of the state agency's administrative records regarding the proposed rule, including any information or comments that the state agency received from the public regarding the proposed rule. A state agency is not required to submit any privileged or confidential information to the Regulatory Compliance Division.*

(3) make recommendations to the board as to approval of the applicant as a sponsoring organization.

(f) Annually the PROB shall provide the board's Peer Review Committee with a report on the continued reliance of sponsoring organizations' peer reviews. The PROB report shall provide reasonable assurance that peer reviews are being conducted and reported on consistently and in accordance with the Standards promulgated by the AICPA Peer Review Board. A summary of oversight visits shall be included with the annual report.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 1, 2022.

TRD-202204761

J. Randel (Jerry) Hill

General Counsel

Texas State Board of Public Accountancy

Earliest possible date of adoption: January 15, 2023

For further information, please call: (512) 305-7842



## PART 30. TEXAS STATE BOARD OF EXAMINERS OF PROFESSIONAL COUNSELORS

### CHAPTER 681. PROFESSIONAL COUNSELORS

#### SUBCHAPTER C. APPLICATION AND LICENSING

##### 22 TAC §681.140

The Texas Behavioral Health Executive Council proposes new §681.140, relating to Requirements for Continuing Education.

Overview and Explanation of the Proposed Rule. 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, LPCs will now be required to complete three hours of cultural diversity or competency; licensees with supervisor status will be required to complete six hours in supervision, but these hours will count towards the minimum required hours instead of in addition to the required hours; licensees may carry up to 10 unclaimed continuing education hours of from one renewal period to the next; and lastly licensees can now claim up to one hour of self-study continuing education credit.

The Executive Council has already received public comments both in support and in opposition to newly proposed subsection (f), which requires licensees to obtain at least fifty percent of their continuing education hours from one of the providers listed in subsection (f). The requirements of subsection (f) are 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. This requirement will alleviate the risk that licensees receive all of their continuing education from one indi-

vidual or single source provider that has never been reviewed, edited, or vetted by any other individual or organization. Many of the comments in opposition to subsection (f) request that the Executive Council include other groups of individuals or entities to this list. The Executive Council believes the currently proposed list is sufficient and declines to include an exhaustive list of every individual or entity that may be worthy of inclusion because, as the Texas Court of Civil Appeals for Texarkana concluded in *Marrs v. Matthews*, 270 S.W. 586, at 588 (Tex. Civ. App.-Texarkana 1925, writ ref'd):

Different minds might reach different conclusions as to what qualities of character should render one unworthy to hold a certificate to teach. But there can be no difference of opinion about the fact that an unworthy person should not be permitted to teach in the public schools. What qualities, or lack of qualities, should render one unworthy would be difficult for legislative enumeration. They are so numerous, and their combinations so varied in different individuals, that a statute which undertakes to be more specific would either be incomplete, or so inflexible as to defeat the ends sought. In the very nature of the subject there must be lodged somewhere a personal discretion for determining who are the "unworthy."

Fiscal Note. Darrel D. Spinks, Executive Director of the Executive Council, has determined that for the first five-year period the proposed rule is in effect, there will be no additional estimated cost, reduction in costs, or loss or increase in revenue to the state or local governments as a result of enforcing or administering the rule. Additionally, Mr. Spinks has determined that enforcing or administering the rule does not have foreseeable implications relating to the costs or revenues of state or local government.

Public Benefit. Mr. Spinks has determined for the first five-year period the proposed rule is in effect there will be a benefit to licensees, applicants, and the general public because the proposed rule will provide greater clarity and consistency in the Executive Council's rules. Mr. Spinks has also determined that for each year of the first five years the rule is in effect, the public benefit anticipated as a result of enforcing the rule will be to help the Executive Council protect the public.

Probable Economic Costs. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no additional economic costs to persons required to comply with this rule. While some previously comments have suggested that subsection (f) could cause an increase in costs, Mr. Spinks does not believe this will be the case. Subsection (f) does not require all continuing education obtained by a licensee to come from a provider listed in this subsection, it only requires fifty percent. The Executive 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. Many, if not most, licensees are already taking courses that comply with subsection (f). Therefore, it is believed that subsection (f) will have little to no impact on the costs of continuing education.

Small Business, Micro-Business, and Rural Community Impact Statement. Mr. Spinks has determined for the first five-year period the proposed rule is in effect, there will be no adverse effect on small businesses, micro-businesses, or rural communities. As discussed above, some commenters believe that subsection (f) could have a negative impact on small or micro-businesses, but Mr. Spinks does not believe this will be the case. Some small or micro-businesses are included in subsection (f), and for



those that are not there are ways for them to be included. Even if a small or micro-business is not included in subsection (f) the courses they provide will still be acceptable for a licensee's renewal, there will just be a limit of 12 credit hours that will be accepted for each renewal period. Additionally, a licensee will now be allowed to carry forward up to 10 hours to the next renewal period, so credit hours in excess of the 12 credit hour limit can still be used for the next license renewal period. Therefore, it is believed that subsection (f) will have little to no impact on the continuing education marketplace, so there will likely be no economic impact caused to small businesses, micro-businesses, or rural communities by this proposed rule.

**Regulatory Flexibility Analysis for Small and Micro-Businesses and Rural Communities.** Mr. Spinks has determined that the proposed rule will have no adverse economic effect on small businesses, micro-businesses, or rural communities. Thus, the Executive Council is not required to prepare a regulatory flexibility analysis pursuant to §2006.002 of the Tex. Gov't Code.

**Local Employment Impact Statement.** Mr. Spinks has determined that the proposed rule will have no impact on local employment or a local economy. Thus, the Executive Council is not required to prepare a local employment impact statement pursuant to §2001.022 of the Tex. Gov't Code.

**Requirement for Rules Increasing Costs to Regulated Persons.** The proposed rule does not impose any new or additional costs to regulated persons, state agencies, special districts, or local governments; therefore, pursuant to §2001.0045 of the Tex. Gov't Code, no repeal or amendment of another rule is required to offset any increased costs. Additionally, no repeal or amendment of another rule is required because the proposed rule is necessary to protect the health, safety, and welfare of the residents of this state and because regulatory costs imposed by the Executive Council on licensees is not expected to increase.

**Government Growth Impact Statement.** For the first five-year period the proposed rule is in effect, the Executive Council estimates that the proposed rule will have no effect on government growth. The proposed rule does not create or eliminate a government program; it does not require the creation or elimination of employee positions; it does not require the increase or decrease in future legislative appropriations to this agency; it does not require an increase or decrease in fees paid to the agency; it does not create a new regulation; it does not expand an existing regulation; it does not increase or decrease the number of individuals subject to the rule's applicability; and it does not positively or adversely affect the state's economy.

**Takings Impact Assessment.** Mr. Spinks has determined that there are no private real property interests affected by the proposed rule. Thus, the Executive Council is not required to prepare a takings impact assessment pursuant to §2007.043 of the Tex. Gov't Code.

**Request for Public Comments.** Comments on the proposed rule may be submitted by mail to Brenda Skiff, Executive Assistant, Texas Behavioral Health Executive Council, 1801 Congress Ave., Ste. 7.300, Austin, Texas 78701 or via the Council's Contact Us webpage (<https://www.bhec.texas.gov/contact-us/index.html>). To submit a comment via the Contact Us webpage simply click on the "Email Us" link on that page and select "Submission of Public Comment for Proposed Rule(s) or Open Meeting" from the drop-down menu. Please use the subject line "Public Comment for (enter rule number here)" to ensure your comments are associated with the correct rule and directed

accordingly. The deadline for receipt of comments is 5:00 p.m., Central Time, on January 16, 2023, which is at least 30 days from the date of publication of this proposal in the *Texas Register*.

**Statutory Authority.** The rule is proposed under Tex. Occ. Code, Title 3, Subtitle I, Chapter 507, which provides the Texas Behavioral Health Executive Council with the authority to make all rules, not inconsistent with the Constitution and Laws of this State, which are reasonably necessary for the proper performance of its duties and regulations of proceedings before it.

Additionally, the Executive Council proposes this rule pursuant to the authority found in §507.152 of the Tex. Occ. Code which vests the Executive Council with the authority to adopt rules necessary to perform its duties and implement Chapter 507 of the Tex. Occ. Code.

In accordance with §503.2015 of the Tex. Occ. Code the Texas State Board of Examiners of Professional Counselors previously voted and, by a majority, approved to propose this rule to the Executive Council. The rule is specifically authorized by §503.2015 of the Tex. Occ. Code which states the Board shall propose to the Executive Council rules regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice; continuing education requirements for license holders; and a schedule of sanctions for violations of this chapter or rules adopted under this chapter.

The Executive Council also proposes this rule in compliance with §507.153 of the Tex. Occ. Code. The Executive Council may not propose and adopt a rule regarding the qualifications necessary to obtain a license; the scope of practice, standards of care, and ethical practice for a profession; continuing education requirements; or a schedule of sanctions unless the rule has been proposed by the applicable board for the profession. In this instance, the underlying board has proposed this rule to the Executive Council. Therefore, the Executive Council has complied with Chapters 503 and 507 of the Texas Occupations Code and may propose this rule.

Lastly, the Executive Council proposes this rule under the authority found in §2001.004 of the Tex. Gov't Code which requires state agencies to adopt rules of practice stating the nature and requirements of all available formal and informal procedures.

No other code, articles or statutes are affected by this section.

§681.140. Requirements for Continuing Education.

(a) Minimum Continuing Education Hours Required.

(1) An LPC must complete 24 hours of continuing education during each renewal period that they hold a license. The 24 hours of continuing education must include 6 hours in ethics and 3 hours in cultural diversity or competency.

(2) 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.

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

(2) A licensee must successfully complete the Texas jurisprudence examination each renewal period. Licensees who pass the Texas jurisprudence examination may claim 1 hour of continuing education in ethics.

(3) 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.

(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 professional counseling;

(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)(2) of this section, and be directly related to the practice of professional counseling;

(2) The Council shall make the determination as to whether the activity claimed by the licensee is directly related to the practice of professional counseling;

(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; and

(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;

(7) a hospital or hospital system, including any clinic, division, or department within a hospital or hospital system; or

(8) 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) of this section, licensees may claim continuing education credit for each of the following activities:

(1) 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.

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

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

(4) 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 professional counseling. 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 education under other parts of this rule.

(5) 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.

(k) Subsection (f) of this rule is effective January 1, 2024.

The agency certifies that legal counsel has reviewed the proposal and found it to be within the state agency's legal authority to adopt.

Filed with the Office of the Secretary of State on December 5, 2022.

TRD-202204785

Darrel D. Spinks

Executive Director

Texas State Board of Examiners of Professional Counselors

Earliest possible date of adoption: January 15, 2023

For further information, please call: (512) 305-7706



## **22 TAC §§681.141 - 681.143, 681.145**

The Texas Behavioral Health Executive Council proposes the repeal of §681.141, relating to General Continuing Education Requirements; §681.142, relating to Acceptable Continuing Education; §681.143, relating to Activities Unacceptable as Continuing Education; and §681.145, relating to Determination of Clock-hours Granted.

Overview and Explanation of the Proposed Rule. These rules are proposed to be repealed because these same requirements have been added to new §681.140, pertaining to requirements