

# On The Record . . .

Official Newsletter of BERTOLINO LLP

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## Don't Forget to Complete those Mandatory Continuing Education Hours!

by Tony Bertolino, Managing Partner

All professions require that you complete some minimum level of continuing education to keep your professional license in good standing. In most cases, you can face discipline and other repercussions for failure to meet your profession's continuing education requirements. For example, some professional licensing boards will refuse to renew your license, which will make you unemployable in your field if you fail to maintain your continuing education requirements. Others will impose significant fines and even suspend your license. As a result, you should be aware of the continuing education requirements for your profession and what you need to do each year to always keep your license in good standing.



## Texas Board of Nursing

Under Texas law, nurses must complete 20 hours of continuing nursing education (CNE) in the nurse's area of practice within the two-year licensing period from a Board of Nursing (BON)-approved provider. BON conducts random audits of nurses within 90 days of their license renewal dates to determine whether they have complied with their continuing education requirements. You must then submit proof of your completion of the required number of BON-approved hours before you can proceed with renewing

your license.

If you fail or are unable to submit proof of your compliance, or if you falsify records, the BON will refuse to renew your license. You then have 20 days to appeal the BON's determination and ask for a hearing to explain why BON's determination should be modified or set aside.

### **Texas Education Agency**

Texans with teaching certificates also must complete a specific amount of continuing professional education (CPE) hours during their five-year certificate period. If you are a teacher and you fail to complete the minimum required CPEs, you will not be able to renew your certificate and it will automatically move to inactive status. This status will prevent you from being employed in positions requiring a certificate.

For instance, classroom teachers must complete 150 CPE hours in five years. At least 37.5 of the CPE hours must relate to certain topics outlined in the law. Likewise, principals and school counselors must complete 200 CPE hours, including 50 CPE hours on particular subjects.

### **Texas State Board of Examiners of Professional Counselors**

Under Texas law, licensed professional counselors must complete specific continuing education requirements during each two-year license renewal period, including the following:

- Four hours of ethics, two related to Texas LPC ethics
- 24 hours of continuing education
- Completion of the Texas Jurisprudence Examination, which counts as one hour of Texas LPC ethics

Like the Board of Nursing, the State Board of Examiners of Professional Counselors monitors compliance with continuing

education via random audits. Failing to provide the requested documentation or providing fraudulent documentation is a violation of board rules and can result in disciplinary action.

### **Texas Medical Board**

The Texas Medical Board has the legal authority to discipline doctors for failing to complete the required amounts of continuing medical education (CME). Failure to complete this education violates the Medical Practice Act as unprofessional and dishonorable conduct.

The sanction for failing to complete 48 credits of CME within 24 months can differ according to the circumstances. On the low end, the sanction may require the doctor to complete a remedial plan that involves making up all missing hours, completing four hours of ethics/risk management, and paying a \$500 administration fee. On the high end of possible sanctions, the doctor may have to complete eight hours of CME in ethics/risk management, complete all missing hours, pay a \$1,000 administration fee, and take a jurisprudence exam.

### **Texas State Bar**

Licensed attorneys must complete 15 hours of continuing legal education (CLE) each year under the Texas Continuing Legal Education (CLE) Rules. At least three of those hours must be dedicated to professional responsibility or legal ethics subjects, with only one of those hours obtained through self-study. Through self-study, attorneys can complete no more than three hours of CLE per year.

The Texas MCLE Regulations provide that attorneys have a grace period until the last day of their birth months to complete their CLE hours for that compliance year. If they fail to complete the necessary CLE hours within that timeframe, they must pay a noncompliance fee, as follows:

- \$100 within one month of the birth month
- \$200 within two months of the birth month
- \$300 within three months of the birth month

Failure to complete the CLE hours within that timeframe or pay the noncompliance fee will result in an automatic license suspension. However, you will be able to reinstate the license by completing the missing CLE hours, any CLE hours required for the current year, and paying a \$400 reinstatement fee.

### **Texas Board of Physical Therapy Examiners**

Texas law requires physical therapists to complete 30 continuing competence units (CCUs) during each two-year license renewal period, including a board-approved jurisprudence assessment module and a human trafficking prevention course. The executive council will conduct random audits of CCU compliance at least quarterly and may request proof of CCU compliance upon license renewal. If you are more than 90 days late renewing your license, you also will have to submit proof of CCU compliance. A lack of CCU compliance can lead to disciplinary action, including license suspension or revocation.

## **Employee Spotlight**



**Congratulations to Bruce Kingsley on three years of service with the Bertolino Law Firm.**

### **When Potential New Clients Decide to be Represented by Other Firms**

by Bruce Kingsley

As the Client Relations Coordinator for Bertolino LLP, it is my responsibility to conduct initial consultations (Non-Attorney Sales) with potential new clients and to act as a communication liaison between our law firm and the new client. However, there are times when potential new clients decide to be represented by other law firms or attorneys.

This makes me extremely nervous for individuals who need professional license defense services to protect their careers. I become concerned because I know what a unique area of law this is, and how important the right representation is to an individual who needs protection from a state board or entity. After all, you have worked very hard and have made so many sacrifices to be able to do what you love to do as a profession. While speaking to potential new clients who inform me they will be hiring other representation for their matter, I always use one of my “Bruce-isms” to get my point across. I simply say...” You wouldn’t bring your car to your dentist to get a tune-up, and you wouldn’t go to your mechanic for a root canal”. What I mean when I say this to potential new clients who are considering hiring other law firms or attorneys to represent them is simple. Make sure the law firm or attorney you chose to hire performs professional license defense services! As I mentioned earlier, this is a unique area of law and there are few firms who perform the services we do at the Bertolino Law Firm.

I know the Bertolino Law Firm isn’t the right match for everyone needing professional license defense services. However, if you are “shopping around” for representation to protect your career, make sure you do your research and due diligence to ensure you are getting exactly what you need. Otherwise, you may end up getting a root canal by a mechanic!

## **Client Survey: Your Opinion Matters**

Bertolino LLP strives to be a 100%client-centered law firm. Each month, we pose a quick, client-focused survey in this section of our newsletter. We asked our clients to please assist us by taking this survey, as your feedback is essential in our on-going efforts to deliver an amazing client experience.

Clients, to what extent do you agree with the following statement:

Bertolino Law Firm's on-boarding process was simple and straightforward.

Strongly disagree

Select

Somewhat disagree

Select

Neither agree nor disagree

Select

Somewhat agree

Select

Strongly agree

Select

## Texas State Board of Public Accountancy v. CW



**Facts:** Our client CW, hired firm to assist him in disclosing one recent and one prior criminal conviction to the Board. The firm drafted and submitted a disclosure of the convictions along with several character statements, employment evaluations, probation documentation and other character evidence that showed that CW was apologetic for his failure to disclose sooner. The firm argued that although CW had made several mistakes in the past, he was still fit to practice.

**Outcome:** After the self-disclosure was received by the Board, CW's matter went through the standard process. Based on the self-disclosure and the other character evidence, the Board offered CW a confidential program. This program required CW to sign a Board order. However, the Board order was not public record and was not subject to an open records request. Further, the order was not considered a disciplinary action and therefore CW's license remained unencumbered. Essentially, after completion of the program, CW's matter will be dismissed.

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## Texas State Board of Public Accountancy v. FJ



**Facts:** Our client FJ, hired firm to assist him in disclosing a recent criminal conviction to the Board. The firm drafted and submitted a disclosure of the conviction along with several witness statements and other character evidence that showed that FJ was still fit to practice in Texas. The firm further argued that this conviction was an isolated incident and not indicative of future conduct.

**Outcome:** After the self-disclosure was received by the Board, FJ's matter went through the standard process. Based on the self-disclosure and the other character evidence, the Board determined that FJ's matter did not warrant disciplinary action. An investigation was never initiated, and FJ's license was never sanctioned.

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## How I Can Take More Control of my Professional Life Through Involvement in My Regulated Industry

by Troy Beaulieu, Esq.

We cannot always control the challenges we face in our career. Hiring an attorney to help assist with a complaint from your regulator is one important way to regain some of that control. Another important way to have control is participation in the governing process. Remember that



people have the right to know, see and participate in the regulatory process. Nowhere is opportunity for involvement more pronounced than at the state regulatory level. Despite this, when I worked in state government, I was amazed at how few people participated. Doing so gives you greater involvement in your career field and awareness of government activity. It may require some research, but involvement in the regulatory process gives you a voice and awareness on current topics.

## **Where do I Look to Find Information About Involvement Opportunities?**

**Your Regulator's Website** - The website has information about what is going on at the crossroads between your industry and government, and what opportunities for involvement exist. This may include the need for subject matter experts on a committee, in an advisory group or participants in an event.

**By Attending Your Regulator's Open Meetings** - The name varies (the Board, the Commission, the Council, etc.), but the function is the same. The governing body provides policy direction within the legal parameters set by the legislature and courts. Members are industry members, but also public citizens who are appointed by the Governor. They typically meet quarterly (sometimes more or less often) to consider agency business. These meetings are open to the public and have a posted agenda on the agency's website that you can review roughly a week ahead. The Texas Secretary of State also keeps a current list of state agency meetings and agendas:

Visit the [Texas Secretary of State](#) website - Some agencies even give their license holders continuing education credit for attending meetings.

**By Subscribing to Agency Publications** - Most regulators issue periodic publications, newsletters, press releases and other communications to generate awareness of agency activity and involvement opportunities. Consider subscribing to these publications. You often can sign up on the agency website.

## **How Can I Get Involved?**

Are you passionate about a particular area in your field or hold strong opinions on a topic? Your regulator needs to hear from you and typically wants feedback. As you engage more, you will learn about other meetings, conferences, and opportunities to network where these issues are discussed prior to agency formal action. This may take the form of a committee, or advisory group tasked to consider a topic and provide recommendations, or it may be staff giving a presentation on agency activity. Find something that interests you and get involved.

**Committee Meetings** - Many agencies have committees comprised of a subset of the members. These committees address areas of the regulated industry such as: licensing, enforcement, education, the agency's financial matters and other topics. These meetings are where initial drafts of proposed rules, legislative changes and policy are considered. The meetings are typically open to the public, and posted online with an agenda.

Legislative and Other Agency Reviews / Oversight - Consider these further opportunities for involvement with your regulator: (1) negotiated rulemaking; (2) petition for adoption of rule changes; (3) agency rule review; (4) the agency sunset review process; (5) legislative oversight, and (6) gubernatorial oversight. Each provides additional opportunities to share your concerns.

- Negotiated rulemaking – Tex. Gov’t Code Chpt. 2008 gives agencies contemplating rule changes the opportunity to notify stakeholders and allow them to participate via a convener and a negotiated rulemaking committee. Do not overlook this opportunity to participate and provide input on agency rulemaking.

- Petition for adoption of rule changes -- Tex. Gov’t Code § 2001.021 provides citizens with the right to petition a Texas regulatory agency and ask the agency to make rule changes. Individual license holders and citizens may request the changes directly from their regulator.

- Agency rule review – Texas agencies must review existing rules at least every four years and, including an evaluation of “whether the reasons for initially adopting the rule continue to exist.” Tex. Gov’t Code § 2001.039. State agencies will provide notice in their regular meeting agendas and post it online. Sometimes a committee will take an initial look at those rules and develop recommendations for the full body to consider.

- The Sunset review process – All state agencies are audited every twelve years. If the agency is not reauthorized by the legislature, it will “sunset” and be closed down. Usually the process results in policy changes, legislative revisions, changes in agency operations, jurisdiction and process. You may provide input to the Texas Sunset Advisory Commission staff performing the audit and again to the Texas Sunset Advisory Commission members (made up of Senate and House members and public members). The Sunset Advisory Commission’s website is: [www.sunset.texas.gov](http://www.sunset.texas.gov) where you can learn more about the process and scheduled review of your particular regulator.

- Legislative oversight – The Texas House and Senate have committees which consider state agency activities and provide oversight. In the House, those matters are typically referred to the House Licensing and Administrative Procedures Committee. In the Senate, they are often referred to the Senate Business and Commerce Committee. During the legislative session and even when not in session, legislators have interest and sway in agency activity, policy, and legislative initiatives. In fact, Tex. Gov’t Code § 2001.032 specifically provides for giving certain legislators notice of proposed agency rules and providing feedback.

- Gubernatorial oversight – The Governor’s Office has a new [Regulatory Compliance Division](#), that provides guidance to state agencies conducting rulemaking. It reviews proposed rules and provides written notice of their approval or rejection of the change. The division welcomes public comment and their website provides information on rules being evaluated.

### **Consider Joining a Trade Group or Professional Association**

You should also consider joining a trade group / industry association. In addition to providing, you with the opportunity to interact with other people who work in your field, deal with your clients, and confront similar challenges, many trade groups get involved in lobbying, or participating in the regulatory



process. Whether that's at the federal or state legislative level or your individual regulator, trade group participation will expand your opportunities to impact your industry. Sometimes trade groups and professional organizations have a committee or component dedicated to awareness and involvement in the matters impacting your career field. This may be monitoring and providing feedback on legislation that has been introduced or providing input on rules being considered. Working with an organized industry group gives you a larger voice, greater resources, and the networking opportunities that come with collaboration.

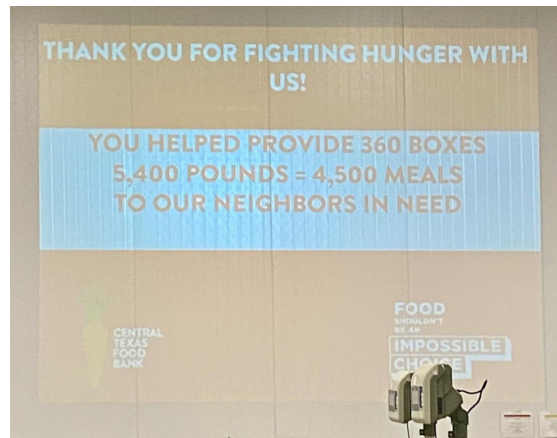
## The Takeaway

Anyone who holds a government license should consider becoming involved in the regulatory process. Important decisions about your industry, your license and your livelihood are being made by agency staff, regulators and state and federal legislators. You can choose to voice your concerns and advocate for your chosen career field.

## Side Bar ...

### Giving Back to our Community

On April 25th, Team Bertolino organized a volunteering visit at The Central Texas Food Bank, where we helped out with the food sorting in the warehouse for distribution. The [Central Texas Food Bank](#) is a leader in the fight against hunger, with over 40 years of service to the community.



Pictured left to right: Tony Bertolino, Sheri Middlemas, Troy Beaulieu, London de la Teja, Bruce Kingsley, and Kerry Bloodsaw

With the help of private organizations, charitable partners, and the government, they have successfully brought nearly 54 million meals across the state of Texas in the last year. These meals have been distributed to whoever needed the help, from local families to nonprofit organizations.

If you or your group would like more information on the many volunteer opportunities with the Central Texas Food Bank, please visit [Central Texas Food Bank, Get Involved](#).

[Contact Us](#)

[Visit Our Website](#)

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