

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS
AND PROFESSIONAL COUNSELORS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.219.501 application) PROPOSED AMENDMENT AND
procedures, 24.219.512 and) ADOPTION
24.219.612 licensure of out-of-state)
applicants, 24.219.2401 complaint)
procedure, and the adoption of NEW)
RULE I military training or experience)

TO: All Concerned Persons

1. On May 15, 2014, at 9:30 a.m., a public hearing will be held in the Small Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Social Work Examiners and Professional Counselors (board) no later than 5:00 p.m., on May 9, 2014, to advise us of the nature of the accommodation that you need. Please contact Cyndi Breen, Board of Social Work Examiners and Professional Counselors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2392; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; dlibsdswwpc@mt.gov (board's e-mail).

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.219.501 APPLICATION PROCEDURES (1) through (2)(c)(i) remain the same.

(ii) names of applicant, and supervisor (include type of license and number) and signature of both;

(iii) through (vi) remain the same.

(3) The applicant shall be notified in writing, of the results of the evaluation of the application for examination.

(4) through (8) remain the same.

(9) The Association of Social Work Boards' (ASWB) generalist examination is not an approved examination for the purpose of obtaining licensure as a clinical social worker.

AUTH: 37-1-131, 37-1-319, 37-22-201, MCA

IMP: 37-1-131, 37-1-306, 37-22-301, MCA

REASON: The board determined it is necessary to amend this rule to exclude the generalist examination as a possible test for licensing clinical social workers. The Association of Social Work Boards (ASWB) notified the board that effective January 1, 2012, the association is no longer supporting the exam for determining competence for clinical licensure. The board is making additional grammatical amendments to comply with ARM formatting requirements.

24.219.512 LICENSURE OF OUT-OF-STATE APPLICANTS (1) A license to practice as a social worker in ~~the state of~~ Montana may be issued to the holder of an out-of-state social worker license at the discretion of the board, provided the applicant completes and files with the board an application for licensure and the required application fee. The candidate must meet the following requirements:

(a) The candidate holds a valid and unrestricted license to practice as a social worker in another state or jurisdiction, which was issued under standards equivalent to or greater than current standards in this state. Official written verification of such licensure status must be received by the board directly from the other state(s) or jurisdiction(s);

(b) The candidate holds a Masters Degree in Social Work (MSW) or an equivalent Council on Social Work Education (CSWE)-approved degree, and shall supply a copy of the certified transcript sent directly from a college, university, or institution accredited by the CSWE;

(c) The candidate shall supply proof of successful completion of the American Association of State Social Work Boards' (AASSWB) (ASWB) advanced or clinical examination or another board-approved licensing examination. The ASWB generalist examination is not an approved examination for purposes of obtaining licensure as a clinical social worker. Candidate scores on the examination must be forwarded directly to the board.

(d)(i) ~~The candidate shall submit proof the candidate has previously completed~~ of completion of 3000 hours of supervised social work experience as defined in 37-22-301, MCA. The candidate may verify the experience hours by affidavit, and need not supply a supervisor's signature upon reasonable explanation of why the supervisor's signature is unavailable to the candidate; or,

(ii) ~~(e)~~ (e) The candidate shall submit proof ~~the candidate has been in~~ of continuous practice as a social worker in another jurisdiction for the two years immediately preceding the date of application in Montana.

(f) The candidate shall submit three reference letters as provided in 37-22-301, MCA.

(g) The candidate shall answer questions about the applicant's character and fitness to practice on a form prescribed by the board, and the candidate shall provide all information required by the board in response to these questions.

(2) All candidates must submit the fingerprint and background check required by the board.

(3) The board may verify qualifications for licensure by reference to information supplied in a candidate's official record with the national registry of the ASWB. The candidate must request that this information be provided to the board in

the manner required by the ASWB and the board. The candidate shall be solely responsible for paying any fee associated with this service.

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-1-304, 37-22-301, MCA

REASON: The board is amending (1)(c) to reflect the current name and appropriate acronym of the Association of Social Work Boards (ASWB). The board is also amending this section to exclude the generalist examination as a possible test for licensing clinical social workers, because effective January 1, 2012, ASWB is no longer supporting the exam to determine competence for clinical licensure. The board is adding (1)(f) and (g) to require references and the character and fitness questionnaire for out-of-state social worker applicants and help ensure that these individuals are committed to practicing ethically and professionally at the time of licensure in Montana, and to comply with the requirements of 37-22-301(2), MCA.

The board determined it is reasonably necessary to add (2) to clarify that out-of-state applicants must also pass the fingerprint and background check requirement mandated by 37-22-301(5), MCA. The board is adding (3) to allow verification of candidate qualifications through the candidate's official record at the national registry of the ASWB. Because the ASWB registry receives and maintains primary source records of applicant credentials in a manner as safe and reliable as the method used by the department, the board concluded that obtaining the records from the ASWB would simplify and expedite the process for those applicants who participate in the registry. Applicants who do not participate in the registry can provide appropriate records as they have in the past.

The board is amending punctuation, grammar, and numbering throughout the rule to comply with ARM formatting requirements. Authority and implementation citations are amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.219.612 LICENSURE OF OUT-OF-STATE LICENSED APPLICANTS

(1) A license to practice as a licensed professional counselor in ~~the state of~~ Montana may be issued to the holder of an out-of-state licensed professional counselor or equivalent license at the discretion of the board, provided the applicant completes and files with the board an application for licensure and the required application fee. The candidate must meet the following requirements:

(a) The candidate holds a valid and unrestricted license to practice as a licensed professional counselor or equivalent in another state or jurisdiction, which was issued under standards substantially equivalent to or greater than current standards in this state. Official written verification of such licensure status must be received by the board directly from the other state(s) or jurisdiction(s);

(b) The candidate holds a graduate degree, which meets the requirements of 37-23-202, MCA, and shall supply a copy of the certified transcript sent directly from an accredited college, university, or institution, and shall complete the degree summary sheet provided by the board;

(c) The candidate shall supply proof of successful completion of the National Counselor Examination (NCE) or another board-approved licensing examination. Candidate scores on the examination must be forwarded directly to the board.

(d)(i) ~~The candidate shall submit proof the candidate has previously completed~~ of completion of 3000 hours of supervised counseling practice as defined in 37-23-202, MCA. The candidate may verify the experience hours by affidavit, and need not supply a supervisor's signature upon reasonable explanation of why the supervisor's signature is unavailable to the candidate; ~~or.~~

(ii) ~~(e)~~ (e) The candidate shall submit proof ~~the candidate has been in~~ of continuous practice as a licensed professional counselor or equivalent in another jurisdiction for the two years immediately preceding the date of application in Montana.

(f) The candidate shall answer questions about the applicant's character and fitness to practice on a form prescribed by the board, and the candidate shall provide all information required by the board in response to these questions.

(2) All candidates must submit the fingerprint and background checks required by the board.

AUTH: 37-1-131, 37-22-201, 37-23-103, MCA

IMP: 37-1-131, 37-1-304, 37-23-202, MCA

REASON: The board determined it is reasonably necessary to add (1)(f) to require that out-of-state professional counselor applicants complete the character and fitness questionnaire to help ensure that these individuals are committed to practicing ethically and professionally at the time of licensure in Montana. The board is adding (2) to clarify that out-of-state professional counselor applicants must also pass the fingerprint and background check requirement statutorily mandated by 37-23-202(3), MCA.

The board is amending punctuation, grammar, and numbering throughout the rule to comply with ARM formatting requirements. Authority and implementation citations are amended to accurately reflect all statutes implemented through the rule, provide the complete sources of the board's rulemaking authority, and delete reference to a repealed statute.

24.219.2401 COMPLAINT PROCEDURE (1) A person, government, or private entity may submit a written complaint to the board charging a licensee or license applicant with a violation of board statute or rules, and ~~specifying~~ specify the grounds for the complaint.

(2) Complaints must be in writing, and shall be filed on the proper complaint form prescribed by the board, which shall include a statement on release of confidentiality and ~~shall require a notarized signature by complainant.~~

(3) Upon receipt of the written complaint form, the board office shall log in the complaint and ~~assign it a complaint number.~~ The complaint shall then be sent to the licensee complained about for a written response ~~to be received within 20 calendar days from the date licensee receives the request for response.~~ Upon receipt of the licensee's written response, both complaint and response shall be considered, which must be submitted within the time set by the board. The department shall compile

all materials received regarding the complaint and response, if any, and make them available for consideration by the screening panel of the board for appropriate action, including dismissal, investigation, or a finding of reasonable cause of violation of a statute or rule. The board office shall notify both complainant and licensee of the determination made by the screening panel.

(4) remains the same.

AUTH: 37-1-131, 37-22-201, ~~37-23-103~~, MCA

IMP: 37-1-308, 37-1-309, MCA

REASON: The board determined it is reasonably necessary to amend this rule as it contradicts current complaint handling processes of the department. Following amendment, the rule will reflect the department procedures used to facilitate other boards that are administratively attached to the department.

Authority citations are amended to accurately reflect all statutes implemented through the rule and delete reference to a repealed statute.

4. The proposed rule to be adopted provides as follows:

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training or education toward the requirements for licensure as a clinical professional counselor, clinical social worker, and marriage and family therapist.

(2) Relevant military training or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training or education that is equivalent to relevant licensure requirements for a clinical professional counselor, clinical social worker, or marriage and family therapist. At a minimum, satisfactory evidence shall include:

- (a) a copy of the applicant's military discharge document (DD 214);
- (b) a document that clearly shows all relevant training, certification, or education the applicant received while in the military, including dates of training and completion or graduation; and

(c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs

to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Social Work Examiners and Professional Counselors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdswwpc@mt.gov, and must be received no later than 5:00 p.m., May 23, 2014.

6. An electronic copy of this notice of public hearing is available at www.swpc.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Social Work Examiners and Professional Counselors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdswwpc@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.219.501, 24.219.512, 24.219.612, and 24.219.2401 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of New Rule I will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request from the Board of Social Work Examiners and Professional Counselors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdswhpc@mt.gov (board's e-mail).

10. Don Harris, attorney, has been designated to preside over and conduct this hearing.

BOARD OF SOCIAL WORK EXAMINERS
AND PROFESSIONAL COUNSELORS
JOHN LYNN, LCPC, PRESIDENT

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State April 14, 2014