

BEFORE THE BOARD OF BEHAVIORAL HEALTH
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the adoption of NEW) NOTICE OF PUBLIC HEARING ON
RULE I licensees authorized to) PROPOSED ADOPTION
perform psychological assessments,)
NEW RULE II educational)
requirements for performing)
psychological assessments without)
supervision, and NEW RULE III)
licensees qualified to supervise)
psychological assessments)

TO: All Concerned Persons

1. On November 6, 2015, at 10:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed 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 Behavioral Health (board) no later than 5:00 p.m., on October 30, 2015, to advise us of the nature of the accommodation that you need. Please contact Cyndi Reichenbach, Board of Behavioral Health, 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; dlibsdswhpc@mt.gov (board's e-mail).

3. GENERAL REASONABLE NECESSITY STATEMENT: The 2009 legislature enacted Chapter 453, Laws of 2009 (Senate Bill 235), an act expanding the exemption from licensure as a psychologist to include psychological testing, evaluation, and assessment by qualified members of other professions, including licensed professional counselors. The bill was signed by the Governor on May 5, 2009. The 2009 legislature also enacted Chapter 199, Laws of 2009 (House Bill 530), an act revising the definition of social work to clarify that the term includes the administering, evaluating, and assessing of tests. The bill was signed by the Governor on April 9, 2009. Both bills became effective on October 1, 2009.

Senate Bill 235 amended 37-17-104, MCA, to require that the board adopt rules to qualify licensed social workers and professional counselors to perform psychological testing, evaluation, and assessment. Further, these rules must be consistent with the guidelines of the national associations of social workers and professional counselors. In MAR Notice No. 24-219-22, the board previously adopted several rules to initially set these qualification standards. The board is now proposing NEW RULE I to identify professionals qualified to perform psychological assessments, NEW RULE II to establish minimum educational standards for

licensees to perform psychological assessments, and NEW RULE III to identify professionals who are qualified to supervise persons who are learning to perform psychological assessments. The board has determined these new rules are reasonably necessary to establish minimum standards of education and training required for licensees to be authorized to conduct psychological testing.

While guidelines promulgated by national associations of social workers and professional counselors do not include specific numbers or hours of education and experience, the board has determined that the criteria set forth in these proposals can best be met through a combination of education and supervised work experience. Although the board did not determine it was necessary to specify the amount of education or experience necessary to meet the criteria proposed, the board has previously acknowledged that completing six semester hours of graduate education and performing eight assessments under supervision would generally prepare a licensee to independently perform psychological testing.

As guidance, the following are examples of areas the graduate education should generally cover: psychometric theory, including issues of reliability, validity, reference group norms, limits of generalizability, and test construction; theories of intelligence and human cognition, including the role of race and ethnicity in intellectual evaluations, and the administration and interpretation of intellectual instruments; theory, administration, and interpretation of major self-report inventories, such as the MMPI-2 or the PAI, including applicability of specific population norms to individual clients; appropriate selection of instruments to answer specific referral questions and the construction of a test battery; the integration of data from multiple data sources, including interview, psychometric tests, and collateral sources; test security; communication of assessment results to different referring individuals and agencies and feedback to clients themselves; and the relationship between assessment and treatment.

As guidance, the supervised experience in psychological assessment should generally require submission of written reports of those assessments to the supervisor and should generally demonstrate the licensee's competence in the following areas: integration and interpretation of clinical history utilizing a clinical interview conducted by the licensee; intelligence testing; personality testing utilizing at least one objective personality inventory that is widely recognized and used in the field of psychology, has strong empirical foundations, and assesses global personality and psychological functioning; the formulation of appropriate diagnoses using the five axes specified in the Diagnostic and Statistical Manual of Mental Disorders (DSM); and the making of appropriate recommendations.

In addition to satisfying the criteria set forth in the proposed new rules, a licensee must be able to adhere to the standards the board previously adopted in MAR Notice No. 24-219-22, and are specifically found at ARM 24.219.1001, 24.219.1005, 24.219.1011, 24.219.1014, 24.219.1017, 24.219.1020, 24.219.1023, 24.219.1026, 24.219.1029, 24.219.1032, 24.219.1035, and 24.219.1038, to safely and competently perform psychological assessments.

4. The proposed rules to be adopted provide as follows:

NEW RULE I LICENSEES AUTHORIZED TO PERFORM PSYCHOLOGICAL ASSESSMENTS (1) Psychological assessments may be performed by the following individuals:

- (a) a licensed clinical professional counselor or licensed clinical social worker who satisfies the requirements in [NEW RULE II](1) or (2);
- (b) a licensed clinical professional counselor or a licensed clinical social worker who satisfies the requirements in [NEW RULE II](1) and who is acting under the supervision of another licensee of the board specified in (1)(a);
- (c) a psychologist licensed under Title 37, chapter 17, MCA; or
- (d) a licensed clinical professional counselor or a licensed clinical social worker who satisfies the requirements in [NEW RULE II](1) and who is acting under the supervision of a licensed psychologist.

AUTH: 37-17-104, MCA

IMP: 37-17-104, MCA

NEW RULE II EDUCATIONAL REQUIREMENTS FOR PERFORMING PSYCHOLOGICAL ASSESSMENTS WITHOUT SUPERVISION (1) Except as provided in (2), a licensed clinical professional counselor or licensed clinical social worker may engage in psychological assessments without supervision only if the board has received and approved the following information demonstrating generic and specific qualifications to perform psychological assessments:

- (a) academic training at the graduate or postgraduate level from a regionally accredited program that covered:
 - (i) descriptive statistics;
 - (ii) reliability and measurement error;
 - (iii) validity and meaning of test scores;
 - (iv) normative interpretation of test scores;
 - (v) selection of appropriate tests;
 - (vi) test administration procedures;
 - (vii) ethnic, racial, cultural, gender, age, and linguistic variables; and
 - (viii) testing individuals with disabilities; and
- (b) a signed statement from a professional qualified to supervise psychological assessments as set forth in [NEW RULE I](1)(a) or (c) that the supervised licensee has met the requirements to use psychological tests as set forth in this rule.

(2) A licensed clinical professional counselor or licensed clinical social worker is qualified to perform psychological assessments and is not required to demonstrate that the licensee has met the qualifications set forth in (1) if the licensee performed psychological assessments prior to October 14, 2011.

AUTH: 37-17-104, MCA

IMP: 37-17-104, MCA

NEW RULE III LICENSEES QUALIFIED TO SUPERVISE PSYCHOLOGICAL ASSESSMENTS (1) The only professionals qualified to supervise psychological assessment are:

- (a) licensed clinical professional counselors and licensed clinical social workers who satisfy the requirements in [NEW RULE II]; and
- (b) licensed psychologists.

AUTH: 37-17-104, MCA

IMP: 37-17-104, MCA

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 Behavioral Health, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdswhpc@mt.gov, and must be received no later than 5:00 p.m., November 13, 2015.

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 Behavioral Health, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdswhpc@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, do not apply.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULES I, II, and III will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Behavioral Health, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2392; facsimile (406) 841-2305; or dlibsdswhpc@mt.gov (board's e-mail).

10. Darcee Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF BEHAVIORAL HEALTH
DR. PETER DEGEL, LCPC

/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 October 5, 2015