

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

In the matter of the amendment of)
ARM 24.154.301 definitions,)
24.154.401 fee schedule, 24.154.403)
military training or experience,)
24.154.405 education requirement,)
24.154.407 application procedures,)
24.154.408 licensure by)
endorsement, 24.154.409 supervised)
work experience, 24.154.420)
nonresident licensed addiction)
counselor services, 24.154.422)
inactive status and conversion from)
inactive to active status, 24.154.2105)
continuing education requirements,)
24.154.2107 continuing education)
procedures and documentation, and)
24.154.2301 unprofessional conduct,)
the adoption of NEW RULES I)
supervisor qualifications, II qualified)
treatment setting, III addiction)
counselor licensure candidate)
application procedures, IV addiction)
counselor licensure candidate)
requirements, V addiction counselor)
licensure candidate annual)
registration requirements, and VI)
gambling disorder education)
requirement for current licensed)
addiction counselor licensees, and)
the repeal of 24.154.201 procedural)
rules, 24.154.202 public participation)
rules, 24.154.2101 renewals, and)
24.154.2401 complaint procedure)

TO: All Concerned Persons

1. On May 13, 2016, at 4:00 p.m., a public hearing will be held in the Large Conference Room, 4th floor, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment, adoption, and repeal 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 May 6, 2016, 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; dlibsdswwpc@mt.gov (board's e-mail).

3. GENERAL REASONABLE NECESSITY STATEMENT: The 2015 Legislature enacted Chapter 288, Laws of 2015 (House Bill 358), an act generally revising laws relating to licensed addiction counselors (LAC) and transferring the duties related to regulating LACs from the Department of Labor and Industry (department) to the Board of Behavioral Health (board). This bill also revised the registration and regulation of persons seeking licensure as addiction counselors (addiction counselor licensure candidates), and established the requirement that LAC applicants submit to background checks. The bill was signed by the Governor on April 24, 2015, and became effective on October 1, 2015.

The board is adopting NEW RULES III through V and amending certain existing rules to coincide with the new legislative changes and further implement the bill regarding addiction counselor licensure candidates.

Additional changes include replacing out-of-date terminology for current language and processes, repealing unnecessary or redundant rules, and amending rules and catchphrases for accuracy, consistency, simplicity, better organization, and ease of use for the reader. The board is also renumbering within the reorganized rules to comply with ARM formatting requirements. Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule, provide the complete sources of the board's rulemaking authority, and delete references to repealed statutes. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

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

24.154.301 DEFINITIONS (1) "Board" means the Board of Behavioral Health established in 2-15-1744, MCA.

(1) through (4) remain the same but are renumbered (2) through (5).

~~(5)~~ (6) "Dual relationship" means a relationship where a licensed addiction counselor licensee is concurrently or sequentially participating in two or more role categories with a client. These types of relationships may include, but are not limited to, social, professional, familial, financial, business, treatment-professional, communal, institutional, forensic, educational, supervisory, sexual, digital, online, or internet.

(6) remains the same but is renumbered (7).

(8) "Gambling dependence impulse control disorder" means persistent and recurrent problematic gambling behavior leading to clinically significant impairment or distress.

(7) and (8) remain the same but are renumbered (9) and (10).

(11) "Supervisor," when used to refer to a person who supervises the work of an applicant for licensure or licensure candidate, means a person who meets the criteria set forth in [NEW RULE I].

(12) "Training and supervision plan" means a plan, in a form approved by the board, that describes the type, structure, and amount of supervised work experience that a licensure candidate must have in order to satisfy the experience requirements for the type of license the licensure candidate is seeking.

AUTH: 37-35-103, MCA
IMP: 37-35-102, 37-35-103, MCA

REASON: The 2013 Legislature enacted Chapter 275, Laws of 2013 (House Bill 61), an act that added gambling dependence for purposes of addiction counselor licensure laws and amended 37-35-102, MCA. The bill was signed by the Governor on April 24, 2013, and became effective on October 1, 2013. It is reasonably necessary to add (8) and define the term as used in the statute.

The board is adding (11) to define "supervisor" to facilitate the supervisor qualifications that are being established in NEW RULE I.

24.154.401 FEE SCHEDULE (1) through (1)(c) remain the same.

(d) Application for Addiction Counselor Licensure Candidate 250

(e) Addiction Counselor Licensure Candidate Annual Registration 100

(2) remains the same.

(3) The fee for the National Certified Addiction Counselor (~~Level~~ Levels I and II) written ~~examination is~~ examinations are established by and payable directly to the vendor contracted with ~~by the department~~ board to administer the written examination.

AUTH: 37-35-103, 37-35-202, MCA
IMP: 37-1-141, 37-35-103, 37-35-202, MCA

REASON: It is reasonably necessary to amend this rule to specify application and annual registration fees for LAC licensure candidates and further implement House Bill 358. The board is setting these fees to comply with 37-1-134, MCA, and ensure that board fees provide the amount of money usually needed for the operation of the board in providing similar regulatory services. The board notes that only the fee for candidate annual registration is new, as applicants beginning supervised experience are already charged the \$250 application fee in (1)(a). The board estimates that approximately 31 annually renewing LAC licensure candidates will be affected by the proposed new fee, which will increase annual revenue by \$3,100.

24.154.403 MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the ~~department~~ board shall accept relevant military training, service, or education toward the requirements for licensure as a licensed addition counselor.

(2) through (3)(b) remain the same.

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

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

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

24.154.405 EDUCATION REQUIREMENT ~~(1) The following education requirements apply only to students enrolled in an education program per 37-35-202, MCA, prior to September 20, 2013.~~

~~(2) Applicants for counselor certification must meet one of the following three education requirements, and must provide information regarding the chemical dependency treatment setting in which the 1000 hours supervised chemical dependency counseling experience will be completed, as well as the name of the certified counselor approved to supervise chemical dependency counseling experience. Applicants must provide certified transcripts or certificates of completion as proof of successful completion of one of the following education programs:~~

~~(a) a baccalaureate degree in alcohol and drug studies, psychology, social work, counseling or a related field from an accredited college or university; or~~

~~(b) an associate of arts or applied science degree in alcohol and drug studies, chemical dependency or substance abuse from an accredited college or university; or~~

~~(c) graduation from a formal chemical dependency counselor training program which is at least one year in duration and has been approved by the department or recognized under the laws of another state. The formal training program must include 400 hours of classroom preparation and 1600 hours of documented clinical training. Applicants must submit a certificate of graduation with application, as well as a description of the curriculum and training provided.~~

(1) At the time of application, an applicant for licensure as an addiction counselor or registration as an addiction counselor licensure candidate must have graduated from an accredited college or university with:

(a) a baccalaureate or advanced degree in alcohol and drug studies, psychology, sociology, social work, or counseling, or a comparable degree per 37-35-202(9), MCA; or

(b) an associate of arts degree in alcohol and drug studies, addiction, or substance abuse.

(2) At the time of application, an applicant must have graduated from an accredited college or university with:

(a) a baccalaureate or advanced degree in alcohol and drug studies, psychology, sociology, social work, or counseling, or a comparable degree per 37-35-202(9), MCA; or

(b) an associate of arts degree in alcohol and drug studies, addiction, or substance abuse.

(3) All education requirements To qualify for LAC licensure, a candidate's education must include 270 330 contact hours of specific chemical dependency addiction or counseling courses. These are contact hours that may be obtained through academic course work, approved workshop training, or approved home

study courses. The ~~270~~ 330 hours must include minimum hours in each of the following areas:

- (a) chemical dependency assessment and patient placement (must include chemical dependency assessment, biopsychosocial testing, diagnosis, referrals, and patient placement); ~~30~~ 60 hours
- (b) counseling; ~~45~~ 90 hours
- (c) pharmacology (must include drug classification, effects, detoxification and withdrawal); ~~12~~ 30 hours
- (d) ethics (ethics for addiction counselors); ~~6~~ 15 hours
- (e) remains the same.
- (f) treatment planning and documentation; ~~15~~ 30 hours
- (g) multicultural competency - knowledge of and sensitive to the cultural factors and needs of diverse populations and demonstrate competency in applying culturally relevant skills; ~~12~~ 15 hours
- (h) co-occurring disorders; 30 hours
- (i) gambling/gaming disorder assessment and counseling. 30 hours

AUTH: 37-35-103, MCA

IMP: 37-35-103, 37-35-202, MCA

REASON: It is reasonably necessary to update (3) and reflect current national LAC educational standards and reflect the statutory changes from House Bill 61 (2013), which added gambling dependence for purposes of addiction counselor licensure laws. Although the hours were updated previously in ARM 24.154.407, the board is amending and reorganizing these rules to locate the educational standards in a single location and general application procedures in the other.

24.154.407 LICENSED ADDICTION COUNSELOR APPLICATION

PROCEDURES (1) An individual seeking licensure in Montana as a licensed addiction counselor (LAC) ~~will first be granted a temporary practice permit upon submission of~~ must submit the following:

- (a) remains the same.
- (b) official transcripts, ~~certificates of completion, or other forms of documentation to verify graduation and completion of the requirements of 37-35-202, MCA, and ARM 24.154.405,~~ sent directly from the accredited college or university as proof of successful completion of an education program per 37-35-202, MCA;
 - ~~(i) Qualifying education in (b) must include at least 300 contact hours of specific courses, including minimum hours in each of the following areas:~~
 - ~~(A) substance related/use disorders assessment and patient placement, biopsychosocial testing, diagnosis, referrals, and the American Society of Addiction Medicine Patient Placement (ASAM) criteria or any nationally recognized equivalent~~ ~~60~~ 60 hours
 - ~~(B) licensed addiction counseling~~ ~~90~~ 90 hours
 - ~~(C) pharmacology (must include drug classification, effects, detoxification, and withdrawal)~~ ~~30~~ 30 hours
 - ~~(D) ethics (ethics for licensed addiction counselors)~~ ~~15~~ 15 hours

- ~~(E) alcohol and drug studies 30 hours~~
- ~~(F) treatment planning and documentation 30 hours~~
- ~~(G) multicultural competency 15 hours~~
- ~~(H) co-occurring disorders 30 hours~~

~~(c) specific information regarding the licensed addiction counseling qualified treatment setting satisfying [NEW RULE II] where the supervised work experience will be completed, including;~~

- ~~(i) name of the LAC responsible for the supervised work experience;~~
- ~~(ii) verification that any and all licenses held by the LAC supervisor in other jurisdictions are unrestricted with no pending discipline; and~~
- ~~(iii) proof that the LAC supervisor has at least three years of licensed addiction counseling experience post licensure in an approved LAC treatment setting; and~~

~~(d) specific information regarding the applicant's supervisor and demonstrating the supervisor has met the qualifications listed in [NEW RULE I], including:~~

- ~~(i) name and qualifications of the supervisor responsible for the supervised work experience;~~
- ~~(ii) verification that any and all licenses held by the supervisor in other jurisdictions are unrestricted with no pending discipline; and~~
- ~~(iii) proof that the supervisor has at least three years of licensed addiction counseling experience post licensure in an approved addiction counseling treatment setting;~~

~~(e) documentation, on a form approved by the board, that the applicant has satisfied the supervised experience requirements in ARM 24.154.409;~~

~~(f) the fingerprint and background check required by the board; and~~

~~(d) remains the same but is renumbered (g).~~

~~(2) The new education requirements in (1)(b)(i)(A) through (H) apply to first-time students newly enrolled in an education program after September 20, 2013. The former education requirements at ARM 24.154.405 apply only to students enrolled in an education program prior to September 20, 2013.~~

~~(3) A person is eligible for only one temporary practice permit for each application and no extensions to permits are allowed.~~

~~(4) Pursuant to ARM 24.154.409, LAC temporary practice permit holders must submit proof of completed supervised work experience hours, signed by the permit holder's LAC supervisor, before becoming eligible to take the written examination. Supervised work experience forms are included in the LAC application.~~

~~(5) Individuals with a LAC temporary practice permit must provide proof of completed supervised work experience hours as detailed in (1)(c) before they are eligible to take the written examination.~~

~~(2) Except as provided in (5), all supervised experience hours must be completed pursuant to ARM 24.154.409 before an individual is eligible to take the written examination.~~

~~(6) (3) The addiction counselor written examination shall cover four content areas, including, but not limited to:~~

~~(a) through (d) remain the same.~~

(7) remains the same but is renumbered (4).

(5) If the applicant achieved a passing score on the NCC Level 1 or Level 2 examination, the Northwest Certification II examination, or the Southwest Certification II examination as part of the applicant's education program, the passing examination score will be accepted for licensure.

(6) Examination results are valid within four years of the date the applicant took the examination that resulted in the passing score.

(7) Applicants shall be allowed a maximum of three attempts to successfully pass the examination.

(8) After the third attempt, if the applicant has not achieved a passing score, the applicant must request in writing to the board to retake the examination. The board may require the applicant to complete a preapproved remediation plan prior to additional exam administrations.

AUTH: 37-35-103, MCA

IMP: 37-35-103, 37-35-202, MCA

REASON: See REASON for ARM 24.154.405.

With the passage of House Bill 358, all board licensees and licensure candidates are subject to the board's fingerprint and background check requirements. The board determined it is reasonably necessary to add (1)(f) to clarify this requirement for LAC applicants.

24.154.408 LICENSURE BY ENDORSEMENT OF OUT-OF-STATE LAC APPLICANTS

~~(1) Licensed addiction counselors (LAC) licensed in other states or through the military may apply for a Montana license. To apply, applicants must:~~

~~(a) complete the licensure application;~~

~~(b) submit documentation of education and required hours of supervised work experience pursuant to ARM 24.154.409;~~

~~(i) In the absence of access to a supervisor, applicants may verify the supervised work experience hours by affidavit, and need not supply a supervisor's signature upon reasonable explanation of why the supervisor's signature is unavailable.~~

~~(c) submit verification directly from all states where the applicant holds or has held a license that such license(s) are unrestricted with no pending discipline;~~

~~(d) submit proof of successful passage of the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NCC) Level 1 or Level 2 examination or equivalent;~~

~~(e) shall submit proof the applicant has been in continuous practice as a LAC in another jurisdiction for the two years immediately preceding the date of application in Montana; and~~

~~(f) pay the application fee.~~

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

(a) hold a valid and unrestricted license to practice as a licensed addiction counselor or equivalent in another state or jurisdiction that 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) hold a degree, which meets the requirements of 37-35-202, MCA, and shall supply a copy of the certified transcript sent directly from an accredited college, university, or institution, and complete the degree summary sheet provided by the board;

(i) Candidates who did not obtain the addiction-specific education hours within their degree must complete an addiction-specific education summary sheet.

(c) supply proof of successful completion of the National Association of Alcoholism and Drug Abuse Counselors Certification Commission Level 1 or Level 2 examination, the Northwest Certification II examination, or the Southwest Certification II examination or another board-approved licensing examination. The applicant's scores on the examination must be forwarded directly to the board;

(d) submit proof of completion of the hours of addiction counseling experience required in ARM 24.154.409. The applicant 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 applicant;

(e) submit proof of continuous practice as a licensed addiction counselor or equivalent in another jurisdiction for the two years immediately preceding the date of application in Montana; and

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

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

(3) An out-of-state applicant for licensure in Montana may be granted a temporary permit to practice addiction counseling, provided:

(a) the applicant has submitted a completed application as described in this subchapter; and

(b) the initial screening by board staff shows the current license is in good standing and not on probation or subject to ongoing disciplinary action.

(i) The temporary permit will remain valid until a license is granted or until notice of proposal to deny license is served, whichever occurs first.

(ii) In the event that neither contingency has occurred within one year of issuance of the temporary permit, the temporary permit shall expire and may not be renewed.

AUTH: 37-35-103, MCA

IMP: 37-35-103, MCA

24.154.409 SUPERVISED WORK EXPERIENCE (1) A minimum of Six seven months and (1000 hours) of supervised work experience hours in a licensed addiction counseling qualified treatment setting pursuant to [NEW RULE II] is required for licensure.

(2) ~~Applicants for LAC temporary practice permits must maintain~~ An LAC applicant's or licensure candidate's supervised experience must be documented on weekly timesheets.

(a) The weekly timesheets must document work experience in the following 11 skill areas:

(i) through (xi) remain the same.

(b) The weekly timesheets must be signed by the supervisor and submitted to the department ~~at the completion of the required minimum hours~~ with an application for licensure.

(c) The supervisor must observe the work of ~~applicants for LAC temporary practice permits~~ the LAC applicant or licensure candidate in each of the 11 skill areas. ~~Observation of the work of applicants by supervisors~~ may occur via Skype or other similar technological means.

(d) A summary sheet for each supervisor named must also be attached to the weekly timesheets to verify the ~~applicants meet~~ LAC applicant or licensure candidate has met the required minimum hours in the 11 skill areas. This summary sheet shall summarize the weekly timesheets ~~maintained by the applicants.~~

(e) ~~Applicants~~ LAC applicants and licensure candidates must complete the required minimum hours in the 11 skill areas as follows. The remaining hours must be under onsite clinical supervision in each of the 11 skill areas.

Skill Areas	Hours
screening	30
assessment/patient placement	100
treatment planning	50
referrals	20
case management	50
individual counseling	60
group counseling	100
client education	35
documentation	35
professional and ethical responsibilities	10
multicultural competency	10
TOTAL	500

(3) ~~Temporary practice permit holders~~ An LAC applicant or licensure candidate may select any of the 11 skill areas in order to accumulate the remaining supervised work experience hours. ~~Temporary practice permit holders may select any of the 11 skill areas in order to accumulate the remaining supervised work experience hours.~~

~~(4) Temporary practice permit holders are not eligible to take the examination if the supervised work experience hours are not accumulated by the end of the timeframes delineated in (1). If holders do not accumulate their supervised work experience hours within those timeframes, their applications will be closed and applicants must reapply, pay the application fee, and begin accumulating the required hours again.~~

~~(4) The supervisor's relationship with the LAC applicant or licensure candidate shall not constitute a conflict of interest, including, but not limited to being in a cohabitation or financially dependent relationship with the LAC applicant or licensure candidate, or being the applicant's or licensure candidate's parent, child, spouse, or sibling.~~

~~(5) Supervised work experience hours may be gained through paid work experience, academic internship hours, or unpaid volunteer work if the temporary practice permit holder LAC applicant or licensure candidate is supervised by a Montana LAG qualified supervisor in a qualified treatment setting.~~

~~(6) Supervised work experience must be completed in not more than two different treatment settings. Internship hours earned through an academic program are not included in the limit of two treatment settings.~~

~~(7) Qualified treatment settings include those where temporary practice permit holders may obtain supervised work experience based on nationally recognized patient placement criteria. Criteria for these treatment settings may include settings that provide the basis for a continuum of care for patients with addictions and settings that include any level of care as defined by American Society of Addiction Medicine (ASAM) in *The ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions* (October 24, 2013).~~

~~(a) Qualified treatment settings for supervised work experience are:~~

~~(i) settings with a primary focus in licensed addiction counseling;~~

~~(ii) Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or Commission on Accreditation of Rehabilitation Facilities (CARF)-approved settings;~~

~~(iii) Indian Health Service (IHS)-approved settings;~~

~~(iv) organized licensed addiction counseling settings within branches of the armed forces of veterans' administration hospitals; and~~

~~(v) organized group practice setting (two or more licensed addiction counselors in a defined, conjoint practice). The work setting must have the capacity to provide multidisciplinary supervision.~~

~~(b) Qualified treatment settings must have a direct referral relationship for the provision of:~~

~~(i) detoxification services;~~

~~(ii) medical services;~~

~~(iii) laboratory services;~~

~~(iv) psychiatric consultations; and~~

~~(v) psychological consultations.~~

~~(c) Qualified treatment settings must demonstrate the individualized treatment plans including:~~

~~(i) problem formulations;~~

~~(ii) goals;~~

~~(iii) measurable treatment objectives;~~
~~(iv) progress notes; and~~
~~(v) regular reviews of plans at specified times by a designated treatment team.~~

AUTH: 37-35-103, MCA
IMP: 37-35-103, 37-35-202, MCA

REASON: It is reasonably necessary to update this rule to reflect current national LAC standards in supervised experience and reflect the statutory changes from House Bill 61 (2013), which added gambling dependence for purposes of addiction counselor licensure laws.

The board is relocating the provisions of (7) regarding qualified treatment settings to NEW RULE II.

24.154.420 NONRESIDENT LICENSED ADDICTION COUNSELOR SERVICES (1) remains the same.

(2) If the provision of such services allowable by 37-35-201, MCA, exceeds ten days within any calendar year, the nonresident LAC shall report the nature and extent of the activity or service to the department board on a department-provided board-approved form.

AUTH: 37-35-103, MCA
IMP: 37-35-201, MCA

24.154.422 INACTIVE STATUS AND CONVERSION FROM INACTIVE TO ACTIVE STATUS (1) A licensee may place a license on inactive status by either indicating on the renewal form that inactive status is desired or by informing the department board in writing that an inactive status is desired. The license must have been active and in good standing prior to the first time it is placed on inactive status. It is the sole responsibility of the inactive licensee to keep the department board informed as to any changes of address during the period of time the license remains on inactive status. Inactive licensees must pay the inactive license fee annually to maintain license status.

(2) through (4)(a) remain the same.

(b) submitting satisfactory evidence that the licensee has attended ten hours of continuing education per year while on inactive status, which comply with the continuing education rules of the department board. The continuing education hours must have been acquired within the 24 months immediately preceding application to convert to active status.

AUTH: 37-1-319, 37-35-103, MCA
IMP: 37-1-319, 37-35-103, MCA

24.154.2105 CONTINUING EDUCATION REQUIREMENTS (1) through (3) remain the same.

(4) If licensees are unable to acquire sufficient continuing education credits to meet the requirements due to medical hardship, licensees may request an exception from the ~~department~~ board. All requests for exceptions will be evaluated on a case-by-case basis by the ~~department~~ board.

AUTH: 37-1-319, 37-35-103, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-35-103, MCA

24.154.2107 CONTINUING EDUCATION PROCEDURES AND DOCUMENTATION ~~(1) Renewing licensees shall submit a completed renewal form to the department either electronically or by mail and pay the applicable renewal fee.~~

~~(a) At renewal, licensees must affirm they have complied with all continuing education (CE) requirements.~~

~~(b) (1) New licensees renewing for the first time are exempt from CE continuing education (CE) reporting, but shall affirm compliance with all CE requirements beginning with their second renewal.~~

~~(2) through (10) remain the same.~~

AUTH: 37-1-319, 37-35-103, MCA

IMP: 37-1-104, 37-1-131, 37-1-306, 37-1-319, 37-35-103, MCA

REASON: Because the department administers a standardized renewal process for all professional and occupational licensure boards, the board is amending this rule to remove unnecessary language.

24.154.2301 UNPROFESSIONAL CONDUCT (1) In addition to unprofessional conduct as identified in ~~37-1-410~~ 37-1-316, MCA, a violation of one or more of the following constitutes unprofessional conduct:

(a) through (m) remain the same.

(n) misrepresenting the types or status of licensure by performing or holding oneself out as able to perform professional services beyond the ~~counselor's~~ licensee's field of competence, or outside the scope of the license, or delegating professional responsibilities to a person not appropriately qualified to provide such services;

(o) through (ab) remain the same.

(ac) entering into a treatment relationship that the ~~licensed addiction counselor~~ licensee knows or reasonably ought to know has the potential to be exploitative in nature, compromises the ~~licensed addiction counselor's~~ licensee's objectivity or professional judgment, or creates or increases the risk of harm to the client due to:

(ac)(i) through (ad) remain the same.

(ae) failing to resolve a treatment relationship that the ~~licensed addiction counselor~~ licensee knows or reasonably ought to know has the potential to be exploitative in nature, compromises the ~~licensed addition counselor's~~ licensee's objectivity or professional judgment, or creates or increases the risk of harm to the client;

(af) through (aj) remain the same.

(ak) failing to refer clients whose impairment statuses are beyond the scope of the ~~licensed addiction counselor's~~ licensee's expertise;

(al) and (am) remain the same.

(an) habitual intemperance or excessive use of an addictive drug, alcohol, or any other substance to the extent the use impairs the user physically or mentally; or

(ao) conviction or violation of a federal or state law regulating the possession, distribution, or use of a controlled substance, as defined by the federal Food and Drug Administration or successors, whether or not an appeal is pending;

(ap) performing or holding oneself out as able to perform professional services beyond the field or fields of competence as established by education, work experience, and/or training; or

(aq) permitting a person under the licensee's supervision or control to perform or hold oneself out as competent to perform professional services beyond the level of education, work experience, and/or training of that person.

AUTH: 37-1-319, 37-35-103, 37-35-301, MCA

IMP: 37-1-316, 37-1-319, ~~37-1-410~~, 37-35-103, ~~37-35-301~~, MCA

REASON: The board is adding (1)(ap) and (aq) to this rule at the request of the board screening panel following House Bill 80's (2009) establishment of temporary practice permits for licensed addiction counselor applicants completing prelicensure supervised work experience. In order to adequately regulate and appropriately discipline both the temporary permit holders and their supervisors, the board determined it is reasonably necessary to add the specified behavior to those actions the board intends as unprofessional conduct.

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

NEW RULE I SUPERVISOR QUALIFICATIONS (1) A person supervising the experience of an addiction counselor licensure candidate shall meet the minimum qualifications set forth in this rule.

(2) The supervisor must:

(a) be a licensed addiction counselor or trained in a related field;

(b) hold an active and current license in good standing, which was issued by the licensing board or other officially recognized licensing body of the state where supervision occurs; and

(c) have three years of postlicensure experience in a qualified treatment setting.

AUTH: 37-35-103, MCA

IMP: 37-35-103, 37-35-202, MCA

REASON: It is reasonably necessary to adopt NEW RULE I and move the supervisor qualifications from ARM 24.154.407(1)(c) to this rule for clarity and ease of use.

NEW RULE II QUALIFIED TREATMENT SETTING (1) Qualified treatment settings include those addiction treatment programs where licensed addiction counselor (LAC) applicants or licensure candidates may obtain supervised work experience based on nationally recognized patient placement criteria. Criteria for these treatment settings may include settings that provide the basis for a continuum of care for patients with addictions and settings that include any level of care as defined by American Society of Addiction Medicine (ASAM) in The ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions (October 24, 2013).

(2) Qualified treatment settings for supervised work experience are:

- (a) settings with a primary focus in licensed addiction counseling;
- (b) Joint Commission on Accreditation of Healthcare Organizations (JCAHO), Commission on Accreditation of Rehabilitation Facilities (CARF), or Council on Accreditation (COA) approved settings;
- (c) Indian Health Service (IHS)-approved settings;
- (d) organized licensed addiction counseling settings within branches of the armed forces of veterans' administration hospitals;
- (e) licensed mental health centers; and
- (f) organized group practice setting (two or more licensed addiction counselors in a defined, conjoint practice). The work setting must have the capacity to provide multidisciplinary supervision.

(3) Qualified treatment settings must have a direct referral relationship for the provision of:

- (a) detoxification services;
- (b) medical services;
- (c) laboratory services;
- (d) psychiatric consultations; and
- (e) psychological consultations.

(4) Qualified treatment settings must demonstrate the individualized treatment plans including:

- (a) problem formulations;
- (b) goals;
- (c) measurable treatment objectives;
- (d) progress notes; and
- (e) regular reviews of plans at specified times by a designated treatment team.

AUTH: 37-35-103, MCA

IMP: 37-35-103, 37-35-202, MCA

REASON: The board is relocating the provisions on qualified treatment settings from ARM 24.154.409, the rule on supervised work experience, to this new rule for increased clarity and ease of use for the reader.

NEW RULE III ADDICTION COUNSELOR LICENSURE CANDIDATE APPLICATION PROCEDURES (1) A person seeking licensure as an addiction counselor licensure candidate must apply on the board's official forms which may be

obtained through the department. All requirements with documentation must be met at the time of application. Incomplete applications will not be considered by the board.

(2) A completed addiction counselor licensure candidate application must include:

(a) the application fee;

(b) official transcripts provided directly from the institution documenting the applicant's completion of the education required by ARM 24.154.405; and

(c) the licensure candidate's proposed training and supervision plan.

(3) A training and supervision plan is subject to board approval, must be in a form approved by the board, and must include:

(a) identification of the candidate and qualified supervisors;

(b) the supervisors' license types, license numbers, and amount of postlicensure experience in a qualified treatment setting;

(c) verification that any and all licenses held by the supervisors in all jurisdictions are unrestricted with no pending discipline;

(d) identification of the applicant's qualified treatment setting and evidence that the qualified treatment setting satisfies the requirements of [NEW RULE II];

(e) a proposed record of supervision in a form approved by the board that will address and document the licensure candidate's experience for the purpose of meeting the requirements of ARM 24.154.409; and

(f) a signed supervision agreement between the candidate and supervisors addressing the duties of the candidate and supervisors, the obligations of the candidate and supervisor under ARM 24.154.409, confidentiality, frequency and method of supervision, and duration and termination of the supervision agreement.

(4) All applicants must submit the fingerprint and background check required by the board.

AUTH: 37-35-103, MCA

IMP: 37-35-103, 37-35-202, MCA

NEW RULE IV ADDICTION COUNSELOR LICENSURE CANDIDATE REQUIREMENTS (1) An addiction counselor licensure candidate must provide an update to the board within ten business days:

(a) if there is a substantial change in the candidate's training and supervision plan; and

(b) prior to commencing supervised work experience under a new supervisor.

(2) An updated training and supervision plan or change in supervisor does not require additional board approval, unless there is reason to believe the update does not conform to the board's training and supervision requirements.

(3) The licensure candidate and supervisors are responsible for ensuring that the licensure candidate and supervisors comply with the requirements of ARM 24.154.409 and the statutes, rules, and standards pertaining to the practice of addiction counseling at all times.

(4) The licensure candidate must maintain the record of supervision, which must be maintained according to the requirements of ARM 24.154.409 and may be requested by the board at any time.

AUTH: 37-35-103, MCA
IMP: 37-35-103, 37-35-202, MCA

NEW RULE V ADDICTION COUNSELOR LICENSURE CANDIDATE ANNUAL REGISTRATION REQUIREMENTS

(1) An individual shall register annually as an addiction counselor licensure candidate on or before June 30. An individual may register as an addiction counselor licensure candidate for up to three years from the date the candidate's original candidate license was issued.

(2) Candidates licensed after April 1 in any calendar year will not be required to register again until June 30 of the following calendar year.

(3) After the third registration, an addiction counselor licensure candidate must request permission for an additional registration, which the board may grant on a case-by-case basis.

AUTH: 37-35-103, MCA
IMP: 37-35-103, 37-35-202, MCA

NEW RULE VI GAMBLING DISORDER EDUCATION REQUIREMENT FOR CURRENT LICENSED ADDICTION COUNSELOR LICENSEES

(1) For individuals holding a valid Montana LAC license on or before [the effective date of this rule], the gambling disorder assessment and counseling education requirement in ARM 24.154.405(3)(i) shall be satisfied as follows:

(a) Licensees shall obtain 15 hours of education regarding gambling disorder assessment and counseling. These education credits:

(i) shall count towards the licensee's current continuing education renewal requirement;

(ii) may be obtained by any means delineated in ARM 24.154.2107; and

(iii) must be completed no more than three years prior to, or one year following [the effective date of this rule].

(b) Licensees shall submit proof of compliance with this requirement to the board office no later than [one year from the effective date of this rule].

AUTH: 37-35-103, MCA
IMP: 37-35-102, 37-35-103, MCA

REASON: The 2013 Legislature enacted Chapter 275, Laws of 2013 (House Bill 61), an act that added gambling dependence counseling for purposes of addiction counselor licensure. The bill was signed by the Governor on April 24, 2013, and became effective on October 1, 2013. The board is adopting NEW RULE VI to further implement the bill and coincide with the establishment of gambling disorder assessment and counseling education requirements for LAC applicants in ARM 24.154.405. The board determined it is reasonably necessary to set a similar, one-time education requirement for LACs licensed at the time of this rule's effective date.

6. The rules proposed to be repealed are as follows:

24.154.201 PROCEDURAL RULES at ARM page 24-14615.

AUTH: 37-35-103, MCA

IMP: 2-4-201, MCA

REASON: The board is repealing this rule and ARM 24.154.202, because the provisions are adequately addressed in the board rules in ARM Title 24, chapter 219, which clearly identify their application to all of the board's activities.

24.154.202 PUBLIC PARTICIPATION RULES at ARM page 24-14615.

AUTH: 37-35-103, MCA

IMP: 2-3-103, MCA

24.154.2101 RENEWALS at ARM page 24-14751.

AUTH: 37-1-141, 37-35-103, MCA

IMP: 37-1-141, MCA

REASON: The board is repealing this rule as it is unnecessary. The department administers a standardized renewal process for all professional and occupational licensure boards, and this rule merely references the department rules on renewals.

24.154.2401 COMPLAINT PROCEDURE at ARM page 24-14771.

AUTH: 37-35-103, MCA

IMP: 37-1-402, 37-1-403, 37-1-404, 37-35-301, MCA

REASON: The board is repealing this unnecessary rule because the complaint procedure is adequately addressed in statute and should not be unnecessarily repeated in rule per the Montana Administrative Procedure Act.

7. 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 dlibsdswwpc@mt.gov, and must be received no later than 5:00 p.m., May 20, 2016.

8. 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.

9. 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 dlibsdsowpc@mt.gov; or made by completing a request form at any rules hearing held by the agency.

10. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. Representative Ryan Lynch, the primary bill sponsor, was contacted on April 28, 2015, by regular USPS mail.

11. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.154.301, 24.154.401, 24.154.403, 24.154.405, 24.154.407, 24.154.408, 24.154.409, 24.154.420, 24.154.422, 24.154.2105, 24.154.2107, and 24.154.2301 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 RULES I through VI will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.154.201, 24.154.202, 24.154.2101, and 24.154.2401 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations 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 dlibsdsowpc@mt.gov (board's e-mail).

12. Cyndi Reichenbach, Executive Officer, 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 April 11, 2016