

BEFORE THE LICENSED ADDICTION COUNSELORS PROGRAM  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of	)	NOTICE OF AMENDMENT,
ARM 24.154.301 definitions,	)	AMENDMENT AND TRANSFER,
24.154.401 fee schedule, 24.154.405	)	ADOPTION, AND REPEAL
education requirement, 24.154.407	)	
application procedures, 24.154.409	)	
supervised work experience,	)	
24.154.420 nonresident counselor	)	
services, 24.154.2101 renewals,	)	
24.154.2105, 24.154.2106, and	)	
24.154.2107 continuing education,	)	
24.154.2301 unprofessional conduct,	)	
24.154.2401 complaint procedure,	)	
the amendment and transfer of ARM	)	
24.154.421 (24.154.408) licensure by	)	
endorsement, the adoption of NEW	)	
RULE I inactive status and	)	
conversion, and the repeal of ARM	)	
24.154.410 and 24.154.411	)	
supervision, 24.154.415 certification,	)	
24.154.416 and 24.154.417	)	
examinations	)	

TO: All Concerned Persons

1. On April 11, 2013, the Licensed Addiction Counselors Program of the Department of Labor and Industry (department) published MAR Notice No. 24-154-8 regarding the public hearing on the proposed amendment, amendment and transfer, adoption, and repeal of the above-stated rules, at page 468 of the 2013 Montana Administrative Register, Issue No. 7.

2. On May 7, 2013, a public hearing was held on the proposed amendment, amendment and transfer, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the May 15, 2013, deadline.

3. The department has thoroughly considered the comments received. A summary of the comments received and the department's responses are as follows:

GENERAL COMMENTS

COMMENT 1: One commenter questioned whether a grandfather clause can be incorporated with regard to individuals who are already enrolled in school.

RESPONSE 1: The proposed rule changes already account for students currently enrolled in programs, versus those newly enrolled after the amendments take effect.

COMMENT 2: One commenter cautioned the department to be careful grouping associate, bachelors, and masters level individuals together.

RESPONSE 2: This comment is beyond the scope of this rulemaking project.

COMMENT 3: One commenter stated that comments have been provided in the past, but alleged that nobody responded and nothing changed.

RESPONSE 3: Beginning in 2009, the department held several information-gathering meetings in anticipation of updating the licensed addiction counseling (LAC) rules. All meetings concerning this rulemaking have complied with Montana Administrative Procedure Act.

#### ARM 24.154.301 DEFINITIONS

COMMENT 4: Several commenters questioned whether LACs would know what the term "evidence-based contextually valid assessment instruments" means, stating the definition is vague, too ambiguous, inconsistent with national definition, and violates MAPA, the Montana Constitution, and due process. One commenter asserted the definition exceeds the program's statutory authority.

RESPONSE 4: Following consideration of the comments, the department is further amending the term "evidence-based."

COMMENT 5: One commenter suggested that reference to other materials and/or definitions could provide guidelines to licensees, whereas now there are none regarding the definition of "evidence-based."

RESPONSE 5: The department agrees with the commenter and is amending the definition accordingly.

COMMENT 6: A commenter suggested the department develop definitions for "contextually," "validity," "reliability," "norms," "supervision," and "documentation."

RESPONSE 6: Following consideration of the comment, the department concluded that such definitions are not necessary at this time.

COMMENT 7: One commenter suggested defining "licensed addiction counseling" and "alcohol and drug studies," especially to include evidence-based programs and practices, and asserted that "licensed addiction counseling" is too broad.

RESPONSE 7: Following consideration of the comment, the department concluded that such definitions are not necessary at this time.

ARM 24.154.407 APPLICATION PROCEDURES

COMMENT 8: One commenter did not understand what the qualifying education was for individuals with a bachelor's degree and requested clarification.

RESPONSE 8: This comment is beyond the scope of this rulemaking.

COMMENT 9: One commenter asked the department to retain the provision in this rule so the department will continue to notify applicants within 30 days of an application's acceptance.

RESPONSE 9: The department decided that a notification timeframe is not necessary, since the department's application system operates within the suggested timeframe already, as long as applications are complete.

COMMENT 10: One commenter stated that 300 contact hours of qualifying education is too little to prepare counselors in handling clients, and suggested 1000 to 2000 hours instead.

RESPONSE 10: The department notes that an increase to 1000 to 2000 hours is above even what national standards require, and is not amending the 300-hour requirement further.

COMMENT 11: Several commenters suggested the department amend this rule to include endorsement for Northwest and Southwest CADC II certification for Native Americans.

RESPONSE 11: The department agrees with the suggestion and is amending the rule accordingly.

COMMENT 12: Numerous commenters suggested adding a ten-day timeframe for department issuance of temporary licenses, stating that potential employers should not have to wait months to hear whether a temporary license has been granted.

RESPONSE 12: The department decided that a notification timeframe is not necessary, since the department's application system operates within the suggested timeframe already, as long as applications are complete.

COMMENT 13: Numerous commenters stated it was unnecessary to increase the pharmacology requirement hours from 12 to 30, since the topic is covered by the national examination.

RESPONSE 13: The department concluded that because pharmacology is a topic needed to pass the exam, an increase in the required hours for this topic will prepare applicants more fully to pass the exam.

COMMENT 14: Several commenters questioned what courses actually covered "co-occurring disorders," stating clarification is needed.

RESPONSE 14: Following consideration of the comment, the department concluded that such a definition is not warranted at this time, given the ever-changing nature of course titles at universities.

COMMENT 15: Numerous commenters stated it is unrealistic to require 90 hours in licensed addiction counseling. The commenters asserted that the general counseling courses they obtain, as well as ethics and multicultural courses, should qualify towards addiction counseling.

RESPONSE 15: The department concluded that an amendment is not necessary at this time, since 90 hours in licensed addiction counseling reflects current trends and guarantees applicants are familiar with the most up-to-date practices for addiction counseling.

#### ARM 24.154.409 SUPERVISED WORK EXPERIENCE

COMMENT 16: Two commenters requested clarification to the organized group practice setting language. They stated that such groups should have to prove a group exists, rather than just two private counselors sharing office space.

RESPONSE 16: Following consideration of the comment, the department concluded that is already accomplished through private practice consortium agreements, which are provided to the department.

COMMENT 17: Several commenters stated that doubling the required supervised work experience hours for associate degree holders would create barriers for individuals entering the profession. Numerous commenters questioned creation of the trifurcated supervised work experience system, whereby the requisite hours for associate, bachelors, and masters level applicants is different.

The commenters asserted that because the need for licensed addiction counselors is on the rise, creating a system with more barriers defeats the purpose behind licensure. They stated there is no evidence that shows master's level students are better counselors and therefore need less hours, and that the evidence is to the contrary. One commenter stated that the trifurcated system exceeds the department's statutory authority.

RESPONSE 17: The evidence gathered by the department over the years indicates that a trifurcated system is necessary. In particular, based on complaints received, increasing the supervised work experience hours for associate level individuals is necessary to ensure adequate protection of the public. The department notes that individuals with associate degrees will still be able to work, but will just need to work more supervised hours than previously required. Consequently, no new barriers have been created by the trifurcated system and counselors will still be available for

any increased need that may exist. Developing this system does not exceed the statutory authority provided to the department in 37-35-103 and 37-35-202, MCA.

COMMENT 18: Numerous commenters suggested focusing on the course content taught at schools, rather than increasing the number of supervised hours.

RESPONSE 18: Following consideration of the comment, the department is reluctant to require specific courses, given the ever-changing nature of course titles at universities.

COMMENT 19: Two commenters stated the onsite supervision is difficult to obtain in the rural cities of Montana and suggested allowing supervision via Skype or other similar technological means.

RESPONSE 19: The department agrees and is amending the rule accordingly.

COMMENT 20: Numerous commenters questioned whether academic internships qualified as supervised work experience. If so, the commenters believed there was a conflict between language contained in ARM 24.154.407 and 24.154.409.

RESPONSE 20: The rules delineate that academic internships do not qualify as supervised work experience, and therefore no conflict exists between ARM 24.154.407 and 24.154.409.

#### ARM 24.154.2107 CONTINUING EDUCATION PROCEDURES AND DOCUMENTATION

COMMENT 21: One commenter asked why sociology is being deleted as an available continuing education (CE) course when sociology courses are recognized as qualifying education for applicants.

RESPONSE 21: The department agrees with the suggestion and is amending the rule accordingly.

COMMENT 22: Numerous commenters suggested that webinars be included for allowable continuing education.

RESPONSE 22: The department agrees with the suggestion and is amending the rule accordingly.

COMMENT 23: Several commenters objected to the \$20 fee charged by the department for CE course submission, especially since the rules require submission of the agendas. The commenters stated that those agendas are often time-consuming and thereby costly to submit, and want to utilize the in-service education.

RESPONSE 23: This comment is beyond the scope of this rulemaking.

COMMENT 24: One commenter was concerned with eliminating the carryover for CE credits, since some courses provide 60 to 80 credits and are expensive.

RESPONSE 24: The department decided to eliminate carryover CE after finding that obtaining CE credits each year is necessary to ensure licensees are up-to-date on current education in the field of licensed addiction counseling.

#### ARM 24.154.2301 UNPROFESSIONAL CONDUCT

COMMENT 25: Two commenters stated the vague definition of "evidence-based" is problematic, given that it is linked to unprofessional conduct. Commenters stated that licensees need to know what conduct is considered unprofessional conduct, which is impossible without an accurate definition, and that such licensee ignorance violates due process and is illegal under MAPA.

RESPONSE 25: Given that the department is amending the term "evidence-based," licensees should have a better understanding of what is unprofessional conduct.

4. The department has amended ARM 24.154.401, 24.154.405, 24.154.420, 24.154.2101, 24.154.2105, 24.154.2106, 24.154.2301, and 24.154.2401 exactly as proposed.

5. The department has amended ARM 24.154.301, 24.154.407, 24.154.409, and 24.154.2107 with the following changes, stricken matter interlined, new matter underlined:

24.154.301 DEFINITIONS (1) through (5) remain as proposed.

(6) "Evidence-based" means ~~the licensed addiction counselor systematically finds, appraises, and uses~~ systematically finding, appraising, and using the most current and valid research findings as the basis for clinical decisions based on research from sites such as Substance Abuse and Mental Health Services Administration (SAMHSA), National Registry of Evidence-Based Programs and Practices (NREPP), National Institute on Drug Abuse (NIDA), or similar resources.

(7) through (9) remain as proposed.

24.154.407 APPLICATION PROCEDURES (1) through (6) remain as proposed.

(7) Applicants must receive a passing score on the Level 1 or Level 2 written examination prescribed by the National Association of Alcoholism and Drug Abuse Counselors Certification Commission (NACC), on the Northwest Certification II, or on the Southwest Certification II. Test results are sent to the applicants and the department. Applicants receive an "overall" score for the examination and separate scores for each of the ~~four~~ content areas.

24.154.409 SUPERVISED WORK EXPERIENCE (1) through (2)(b) remain as proposed.

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

(2)(d) through (7) remain as proposed.

24.154.2107 CONTINUING EDUCATION PROCEDURES AND DOCUMENTATION (1) through (7) remain as proposed.

(8) Training films may be used for continuing education, provided the films are observed as part of continuing education that includes a discussion period. Films observed outside a work setting may be counted if the film includes a test instrument to verify training. Webinars also may be used for continuing education.

(9) Counselors may earn all or part of the required continuing education from advanced academic courses. Course work must be completed after the date of licensure or license renewal. Courses must be taken for credit. Audited courses will not receive continuing education credit. Ten hours will be granted for each academic quarter hour and 15 hours for each semester credit hour in the fields of addiction counseling, psychology, social work, ~~and~~ professional counseling, and sociology.

(10) remains as proposed.

6. The department has amended and transferred ARM 24.154.421 (24.154.408) exactly as proposed.

7. The department has adopted New Rule I (24.154.422) exactly as proposed.

8. The department has repealed ARM 24.154.410, 24.154.411, 24.154.415, 24.154.416, and 24.154.417 exactly as proposed.

/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 September 9, 2013