

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.154.301 definitions,)	PROPOSED AMENDMENT,
24.154.401 fee schedule, 24.154.405)	AMENDMENT AND TRANSFER,
education requirement, 24.154.407)	ADOPTION, AND REPEAL
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 May 7, 2013 at 10:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment, amendment and transfer, 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 Licensed Addiction Counselors Program (program) no later than 5:00 p.m., on May 1, 2013, to advise us of the nature of the accommodation that you need. Please contact Cyndi Breen, Licensed Addiction Counselors Program, 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; e-mail dlibsdcdc@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: As part of a thorough periodic review, the department is proposing revisions throughout the licensed addiction counselor program's administrative rules. Some of the proposed amendments are technical in nature, such as renumbering or amending punctuation within certain rules following amendment and to comply with ARM formatting

requirements. Other changes replace out-of-date terminology and align language with current national trends, curricula, industry usage, and standards, delete unnecessary, outdated, or redundant sections, substitute gender neutral terms for gender specific language, and amend rules and catchphrases for accuracy, consistency, simplicity, better organization, and ease of use. The department is replacing the term "certification" with "licensure" to clarify that a certification is a license pursuant to 37-1-130(8), MCA. Authority and implementation cites are being amended throughout to accurately reflect all statutes implemented through the rule, provide the complete sources of the department's rulemaking authority, and delete references to repealed statutes.

Accordingly, the department has determined that it is reasonably necessary to generally amend the program rules at this time. Where additional specific bases for a proposed action exist, the department 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 ~~For purposes of this chapter, the following definitions apply:~~

(1) "Client" means a recipient of licensed addiction counseling services, ~~provided by an eligible or certified counselor, and includes the primary client, family or household members and other significant relationships of the client.~~

(2) ~~"Eligible counselor" means an individual who has completed the academic requirements and the application process for certification.~~ "Contact hour" means academic coursework, approved workshop training, or an approved home study course that is completed hour-for-hour.

(3) "Co-occurring disorder" means the existence of any addiction and any other physical and or mental health disorder.

(4) "Direct supervision" means the supervisor is within audible and visible reach of the person being supervised.

(5) "Dual relationship" means a relationship where a licensed addiction counselor 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) "Evidence-based" means the licensed addiction counselor systematically finds, appraises, and uses the most current and valid research findings as the basis for clinical decisions.

(7) "Exploit" means to manipulate or use, or attempt to manipulate or use a professional relationship with a client, former client, supervisee, or student for the licensee's emotional, financial, romantic, sexual, or personal advantage, or for the advancement of the licensee's personal, religious, political, or business interests.

(8) "Onsite clinical supervision" means the supervisor must be in the facility and immediately available to the person being supervised.

(9) "Significant monetary value" means more than a de minimis value exceeding \$25.00.

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

REASON: The department determined it is reasonably necessary to amend (1) and no longer list the specific people who are considered clients, since the current definition has caused confusion among licensees. The department is proposing deleting the definition of "eligible counselor" from (2) given the reference in statute is to temporary practice permit holder. The department is proposing the remainder of the new definitions to align with and clarify terms used in other rules proposed for amendment in this notice.

24.154.401 FEE SCHEDULE (1) The following is the fee schedule for licensed addiction counselors:

- (a) ~~Original Examination Application~~
for Licensed Addiction Counselor \$200 250
- (b) ~~Original Endorsement Application~~ 200
- (c) ~~Original License~~ 50
- (d) and (e) remain the same, but are renumbered (b) and (c).
- (2) and (3) remain the same.

AUTH: ~~37-1-131, 37-1-134~~, 37-35-103, 37-35-202, MCA
IMP: ~~37-1-131, 37-1-134~~, 37-1-141, 37-35-103, 37-35-202, MCA

REASON: The department is proposing to combine the separate application and license fees into one for either exam or endorsement. The total fees remain unchanged. The department proposes this to simplify the fee payment process at the time of application.

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 [the effective date of the amendments to ARM 24.154.407].

- (1) remains the same but is renumbered (2).
- (a) through (c) remain the same.
- (2) remains the same but is renumbered (3).
- (a) through (g) remain the same.

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

REASON: Following the amendment to the education requirements in ARM 24.154.407 within this notice, the department is amending this rule to clearly delineate that these existing education requirements will only apply to temporary practice permit applicants who were enrolled in an education program prior to [the effective date of the amendments to ARM 24.154.407.]

24.154.407 APPLICATION PROCEDURES (1) ~~Individuals applying for chemical dependency counselor certification in Montana must meet the education requirement before making application for certification or beginning the 1000 hours of supervised work experience. Individuals who have submitted an application that is accepted by the department are then determined to be "eligible" for certification. Applicants who meet the education requirement must submit~~ An individual seeking licensure in Montana as a licensed addiction counselor (LAC) will first be granted a temporary practice permit upon submission of the following:

(a) ~~a completed application for chemical dependency counselor certification three page form (Form A 1-3), available through the program office. Application must include original signature of applicant and will not be accepted without:~~

- ~~(i) required documentation of education (official transcripts or document verifying graduation from a certified training program) including required 270 contact hours of chemical dependency specific training; and~~
- ~~(ii) specific information regarding the chemical dependency treatment setting in which the supervised work experience will be completed. Applicants must provide the name of the certified counselor responsible for the work supervision.~~
- ~~(iii) individuals applying for certification who have completed the work experience in another state or in Montana prior to July 1, 1996, will need to submit information and documentation with the application for approval by the department; and~~

(b) ~~required fee payment.~~ official transcripts, certificates of completion, or other forms of documentation to verify graduation, 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 hours

(B) licensed addiction counseling 90 hours

(C) pharmacology (must include drug classification, effects, detoxification, and withdrawal) 30 hours

(D) ethics (ethics for licensed addiction counselors) 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 treatment setting 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) required application fee payment.

~~(2) Applicants will be notified within 30 days if the application has been accepted. Eligible applicants will receive information regarding the written examination and the applicants guide for the oral case presentation examination. Applicants will also receive an examination schedule.~~

~~(3) The application will be closed if certification is not completed within 18 months after completion of the required 1000 hours work experience. Individuals eliminated from the certification process will be required to reapply and submit a new application with the required fee payment. Applicants reapplying for certification must complete all examinations.~~

(2) The new education requirements in (1)(b)(i)(A) through (H) apply to first-time students newly enrolled in an education program after [the effective date of the amendments to this rule]. The former education requirements at ARM 24.154.405 apply only to students enrolled in an education program prior to [the effective date of the amendments to this rule].

(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.

(6) The written examination shall cover four content areas:

(a) pharmacology of psychoactive substances;

(b) counseling practice;

(c) theoretical based counseling; and

(d) professional issues.

(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 (NCC). 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.

AUTH: 37-35-103, MCA

IMP: 37-35-202, ~~37-35-203~~, MCA

REASON: The department determined it is reasonable and necessary to amend and organize this rule to combine all licensure requirements into a single location for simplicity and ease of reference. The department is further proposing an increase in the addiction-specific education hour requirements for the first time since 1997. The amplified education requirements are reasonably necessary to align with national industry advancements in assessing and treating addictive disorders and their complexities. The department is amending and clarifying the eligibility requirements

and procedures for obtaining temporary practice permits to accurately represent current licensure procedures and conform to the program's statutory authority.

24.154.409 REQUIRED SUPERVISED WORK EXPERIENCE (1) ~~Six months (1000 hours) of supervised chemical dependency counseling experience in an approved chemical dependency treatment setting is required for certification. The supervised experience may be gained through paid work experience, academic internship hours or unpaid volunteer work if the applicant is supervised by a Montana certified chemical dependency counselor in an approved treatment setting. The counseling experience must be completed in not more than two different treatment settings. (Internship hours earned through an academic chemical dependency field placement program are not included in the limit of two treatment settings.)~~

~~(2) Qualified chemical dependency treatment settings include those in which counselors may obtain clinical training and experience and are based on nationally recognized patient placement criteria. The criteria defining chemical dependency treatment settings include those which provide the basis for a continuum of care for patients with alcohol and/or drug addiction and include one or more of the following levels of care:~~

- ~~(a) outpatient treatment;~~
- ~~(b) intensive outpatient/day treatment;~~
- ~~(c) medically monitored inpatient treatment (residential); and~~
- ~~(d) medically managed inpatient treatment (hospital).~~

~~(3) Approved settings for chemical dependency counseling experience include:~~

- ~~(a) state approved chemical dependency treatment programs;~~
- ~~(b) Joint Commission on Accreditation of Healthcare Organizations (JCAHO) or Commission on Accreditation of Rehabilitation Facilities (CARF) approved settings for addictions treatment;~~
- ~~(c) Indian Health Service approved settings for chemical dependency treatment;~~
- ~~(d) organized addictions treatment programs within branches of the armed forces of Veterans Administration hospitals;~~
- ~~(e) organized group practice settings (three or more certified counselors in a defined, conjoint practice) providing addiction treatment services. The work setting must have the capacity to provide multidisciplinary supervision.~~

~~(4) All approved outpatient treatment settings must have a direct referral affiliation for the provision of detoxification services, medical and laboratory services and psychiatric and psychological consultation.~~

~~(5) All approved treatment settings must demonstrate that the individualized treatment plans include problem formulations, goals, measurable treatment objectives and progress notes and that it conducts regular reviews of plans at specified times by a designated treatment team.~~

(1) Supervised work experience hours are determined according to the academic achievement of the applicant as follows:

- (a) 500 hours within six months of receipt of the temporary practice permit for masters or higher degree applicants;

(b) 1000 hours within 12 months of receipt of the temporary practice permit for baccalaureate degree applicants; or

(c) 2000 hours within 24 months of receipt of the temporary practice permit for associate degree applicants.

(2) Applicants for LAC temporary practice permits must maintain weekly timesheets.

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

(i) screening;

(ii) assessment/patient placement;

(iii) treatment planning;

(iv) referrals;

(v) case management;

(vi) individual counseling;

(vii) group counseling;

(viii) client education;

(ix) documentation;

(x) professional and ethical responsibilities; and

(xi) multicultural competency.

(b) The weekly timesheets must be signed by the supervisor and submitted to the department at the completion of the required minimum hours.

(c) The supervisor must observe the work of applicants for LAC temporary practice permits in each of the 11 skill areas.

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

(e) Applicants must complete the required minimum hours in the 11 skill areas according to their academic achievement as follows:

Skill Areas	Masters or Higher Degree (hours)	Baccalaureate Degree (hours)	Associate Degree (hours)
screening	15	30	60
assessment/patient placement	50	100	200
treatment planning	25	50	100
referrals	10	20	40
case management	20	50	100
individual counseling	30	60	120
group counseling	50	100	200
client education	20	40	80
documentation	20	40	80
professional and ethical responsibilities	5	15	20
multicultural	5	15	20

competency			
TOTAL	250	520	1020

(i) For masters or higher degree applicants, 25 hours of the 250-hour minimum must be under direct supervision. The remaining hours must be under onsite clinical supervision in each of the 11 skill areas.

(ii) For baccalaureate degree applicants, 52 hours of the 520-hour minimum must be under direct supervision. The remaining hours must be under onsite clinical supervision in each of the 11 skill areas.

(iii) For associate degree applicants, 102 hours of the 1020-hour minimum must be under direct supervision. The remaining hours must be under onsite clinical supervision in each of the 11 skill areas.

(3) Temporary practice permit holders may select any of the 11 skill areas in order to accumulate the remaining supervised work experience hours. Temporary practice permits 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.

(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 is supervised by a Montana LAC 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 may include any level of care as defined by American Society of Addiction Medicine (ASAM).

(a) Qualified treatment settings for supervised work experience may include, but are not limited to the following:

(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: 37-35-202, MCA

REASON: The department determined it is reasonably necessary to amend this rule to incorporate and reorganize all the requirements regarding supervision that were previously set forth in ARM 24.154.409 through 24.154.411. Following amendment, the supervision requirements will be based on the applicant's educational level to reflect the department's decision that applicants with higher levels of education do not require as many hours as those with lower levels of education. The department is amending the acceptable treatment settings to remove the requirements for specific levels of care after concluding that it is sufficient to accept any level of care as defined by the American Society of Addiction Medicine (ASAM).

24.154.420 NONRESIDENT CHEMICAL DEPENDENCY LICENSED ADDICTION COUNSELOR SERVICES

~~(1) Nonresident consulting chemical dependency counselor Licensed addiction counselors (LACs) may render activities or services defined in 37-35-201, MCA, may be rendered to individuals, groups, corporations, or the public for compensation or fee on a limited basis as provided in 37-35-201, MCA.~~

~~(2) To provide If the provision of such services allowable by 37-35-201, MCA, and engage in such activities in the state of Montana, a chemical dependency counselor duly licensed in the state of the counselor's residence shall file with the program a completed and notarized form provided by the program, stating the nature, location and duration of such services that exceed exceeds ten days within any calendar year, the nonresident LAC shall report the nature and extent of the activity or service to the department on a department-provided form.~~

~~(3) A letter verifying termination of said services shall be filed with the program at the time of termination.~~

AUTH: 37-35-103, MCA

IMP: 37-35-201, MCA

REASON: The department determined it is reasonably necessary to amend this rule to conform processes to the statutory provisions of 37-35-201, MCA, as it is implemented through this rule. The rule is further amended to update to current industry terminology and eliminate notarized forms to encourage and facilitate electronic applications. The department concluded that an affirmation as to the truth of the form's contents is sufficient. The department is striking (3) entirely, as requiring nonresident LACs to notify the department when they cease providing services in Montana exceeds the scope of the statute being implemented.

24.154.2101 RENEWALS (1) remains the same.

~~(2) A renewed certificate Licenses are shall be valid for the time period length of time listed under the renewal frequency in ARM 24.101.413 following the renewal date.~~

~~(3) A default in the payment of a renewal fee after the date it is due increases the renewal fee as prescribed by the The department shall assess late penalty fees in accordance with ARM 24.101.403 for the reactivation of lapsed or expired licenses. A certificate holder, that has not received the certificate from the department due to failure of the certificate holder to meet continuing education requirements or to pay the renewal fee, will be notified in writing by the department. The certificate holder shall have 12 months from the renewal date to obtain continuing education acceptable to the department.~~

(4) remains the same.

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

IMP: 37-1-141, MCA

REASON: The department is amending this rule to accurately reflect current department business processes and align with provisions on licensure renewal in statute and rule.

24.154.2105 CONTINUING EDUCATION REQUIREMENTS (1) ~~All certified counselors are required to earn~~ Licensed addiction counselors (LACs) must obtain 40 20 hours of approved continuing education per two-year renewal cycle to renew their certificate licenses. Continuing education received prior to the date of certification licensure is not counted for towards renewal.

~~(2) Counselors earning more than 40 hours over the two-year renewal period will be permitted to carry forward up to 20 hours to the next renewal cycle. New licensees applying for their first license renewal are not required to report continuing education.~~

~~(3) The purpose of continuing education is the ongoing professional development of chemical dependency professionals LACs after full certification licensure is awarded. It is the responsibility of the individual chemical dependency counselor each licensee to plan, pursue obtain, and document the counselor's continuing education.~~

~~(4) If a certificate licensees holder is are unable to acquire sufficient continuing education credits to meet the requirements due to medical hardship, the~~

~~certificate holder licensees~~ may request an ~~exemption~~ exception from the department. All requests for ~~exemptions~~ exceptions will be ~~considered and~~ evaluated on a case-by-case basis by the department.

AUTH: 37-35-103, MCA

IMP: 37-1-131, 37-1-306, 37-35-103, ~~37-35-203,~~ MCA

REASON: The department is amending (1) to shift from a 2-year to an annual CE reporting cycle. This change will simplify and standardize processes by aligning the reporting cycle with the annual renewal period, and reduce staff time and costs.

The department is amending (2) to eliminate the ability of licensees to carry over continuing education (CE) credits from one renewal period to the next to ensure that licensees maintain a level of knowledge that is current with treatment practices. The department is clarifying the CE requirements for new licensees in (2) to address confusion among applicants and licensees.

24.154.2106 COURSE CRITERIA (1) ~~Content of all~~ All continuing education courses must be:

~~(a) relevant to chemical dependency licensed addiction counseling;~~

~~(b) Training must be~~ related to the scientific knowledge or technical skills required for ~~chemical dependency licensed addiction counseling;~~

~~(c) Training must be~~ related to direct ~~and/or~~ or indirect client care of ~~chemically dependent individuals with addictions.~~

~~(2) Approved courses~~ Courses are not limited to ~~specific alcohol/drug those involving alcohol or drug~~ topics, but may include training in other counseling areas, such as child abuse, compulsive gambling, grief, dually diagnosed clients, stress management, ~~or~~ and sexuality.

~~(2) (3) Courses in chemical dependency licensed addiction counseling program administration or management, research, or other functional areas of chemical dependency treatment programs related to client care will be accepted~~ are acceptable.

~~(3) (4) Courses leading to basic counselor training are not acceptable for continuing education for certified chemical dependency counselors.~~

~~(4) Courses which~~ and courses that deal with the participants' self-improvement, personal growth, changes in attitude, self-therapy, ~~or~~ and self-awareness are not ~~approved~~ acceptable for continuing education credit. Examples of courses that are not ~~approved~~ acceptable for continuing education credit include:

(a) remains the same.

~~(b) chemical dependency licensed addiction counseling education course~~ courses designed for lay people (public education);

(c) remains the same.

(d) liberal arts courses in music, education, art, and other courses unrelated to ~~chemical dependency licensed addiction counseling;~~ and

(e) remains the same.

~~(5) Courses or workshops containing a minimum of six hours training are "structured" workshop training.~~

(6) remains the same, but is renumbered (5).

AUTH: 37-35-103, MCA

IMP: 37-1-131, 37-1-306, 37-35-103, 37-35-203, MCA

REASON: The department determined it is reasonably necessary to amend this rule throughout to more clearly delineate the requirements for acceptable CE courses. The department is deleting (5) because it was created when CE opportunities were difficult to find.

24.154.2107 CONTINUING EDUCATION PROCEDURES AND DOCUMENTATION (1) ~~Certificate holders shall affirm their understanding of and compliance with the continuing education requirements with the signing of the renewal form~~ 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) New licensees renewing for the first time are exempt from CE reporting, but shall affirm compliance with all CE requirements beginning with their second renewal.

~~(2) The renewal application form must be completed and submitted, together with the renewal fee, as verification of continuing education hours earned during the renewal period.~~

~~(3) (2) Certificate holders are required to keep a record of continuing education they have completed~~ Licensees must maintain documentation of completed CE for two years. These records shall be made and make the records available to the department if the certificate holder is licensees are selected for a chosen as a part of the random audit review. The department will annually conduct a random audit of 15 percent of renewed licensees to verify compliance with CE requirements.

~~(4) (3) Documentation verifying attendance must be attached for all workshops CE listed on the continuing education submission form. Certificate of attendance must be signed by the sponsoring agency or workshop presenter, and must include the name of the workshop, name of counselor and the date and number of hours attended.~~

~~(5) (4) Certificates of completion for training will not be returned and must include the course name, number of hours earned, date of completion, and signature of the provider. Copies of certificates of attendance are accepted for verification. Documentation will be recorded in counselors computer file and the copy of certificate discarded.~~

~~(6) Documentation as required below shall be accepted for each of the following continuing education formats:~~

~~(a) (5) Counselors attending workshops that have been preapproved by the department will submit a copy of the certificate of completion. Counselors who attend training that has not been preapproved must submit, in~~ For each training attended, and in addition to the certificate of completion, LACs must submit an agenda with the specific breakdown to of training hours (specific time of registration,

breaks, lunch, etc.), a description of the training, and names of the trainers presenters.

~~(b) (6)~~ A maximum of 20 ten contact hours may be earned over the ~~two-year certification one-year renewal~~ period by ~~workshop presenters and/or preparation by the author or authors of a recognized professional publication~~ licensees presenting workshops. Presenting licensees may earn up to one-half of the actual contact hours presented for preparation time. Credit for preparing presentations will be granted only one time per workshop.

~~(7)~~ Licensees may earn up to five hours for each professional article or book authored by licensees. Licensees may earn up to a maximum of ten hours per renewal cycle in this manner.

~~(i)~~ workshop presenters may earn up to one-half of the actual contact hours presented for preparation time;

~~(ii)~~ credit for preparing presentations may be earned only one time for a training event;

~~(iii)~~ ten hours may be earned by the author for publication of each professional article or book, up to the maximum of 20 hours per renewal cycle.

~~(c)~~ Training that is less than six continuous hours is considered in-service training. In-service hours do not require prior approval but individual in-service records must be maintained by the counselors. Each in-service training record must include the date of the in-service, the subject or title, the name of the trainer, the length of the in-service (i.e., 1 hour, 1.5 hours) and must be signed by the trainer or the counselor's supervisor.

~~(d)~~ (8) Training films may be used for ~~in-service training~~ continuing education, provided the films are observed as part of a ~~structured workshop or in-service training~~ continuing education that ~~include~~ includes a discussion period. Films observed outside a work setting ~~in-service~~ may be counted if the film includes a test instrument to verify training.

~~(e)~~ (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 certification licensure or certificate license renewal. Courses must be taken for credit. Audited courses will not receive continuing education credit. Ten hours will be ~~given~~ granted for each academic quarter hour, ~~or~~ and 15 hours for each semester credit hour, in the fields of ~~chemical dependency~~ addiction counseling, psychology, social work, and professional counseling, ~~and sociology~~.

~~(f)~~ (10) Home study courses ~~that have been approved by the department will~~ require a certificate of completion that includes the course name, number of hours earned, date of completion, and signature of the provider.

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

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

REASON: The department is amending this rule to streamline and clarify the continuing education (CE) requirements for licensees and clearly set forth the department's random audit process. These amendments are reasonably necessary to standardize the renewal and audit processes with the rest of the boards and programs attached to the department. Requiring proof of CE through a random

audit of 15 percent of renewed licensees will help ensure an adequate audit sample to demonstrate that licensees are current with treatment practices. The department further concluded that requiring a time limit for affirming completion of CE and for retaining CE records aligns with standard department processes. The department is amending new (9) to delete sociology as an available CE course to acknowledge that due to the evolution of the sociology profession, the field is no longer as closely related to the LAC profession.

24.154.2301 UNPROFESSIONAL CONDUCT ~~The licensed addiction counselors program defines unprofessional conduct as follows~~ (1) In addition to unprofessional conduct as identified in 37-1-410, MCA, a violation of one or more of the following constitutes unprofessional conduct:

~~(1)~~ (a) having sexual relations soliciting or engaging in a sexual or intimate relationship with a client, a supervisee, client's family member, a client's household member, or other persons with whom a client has had a significant relationship within two years after termination of services to that client;

(b) soliciting or engaging in a sexual or intimate relationship with a former client within two years after the termination of professional services;

~~(2)~~ (c) soliciting sexual relations, committing an act of sexual misconduct or committing a sexual offense, as defined in 46-23-502(9), MCA with a client or former client;

~~(3)~~ (d) soliciting or undertaking engaging in sexual relations with the client of another counselor employed in the same program providing services;

~~(4)~~ (e) recklessly or carelessly causing physical, mental, or emotional harm to a client;

(5) remains the same, but is renumbered (f).

~~(6)~~ providing professional counseling services to members of the counselor's own family, household members, friends or close associates or any person with whom the counselor has had a previous sexual relationship;

(g) engaging in sexual or other harassment of a client, former client, or supervisee;

(7) and (8) remain the same, but are renumbered (h) and (i).

~~(9)~~ (j) failing to make an appropriate referral of a client to another professional when requested to do so by the client, or when the problem of the client scope of services is beyond the training, experience, or competence of the counselor;

(10) remains the same, but is renumbered (k).

~~(11)~~ (l) failing to keep the client informed as to the purpose and nature of any evaluation, treatment, or other procedures, and of the client's right to freedom of choice regarding services provided;

~~(12)~~ (m) accepting gifts or gratuities of significant monetary value or borrowing money from a client or former client within two years after termination of services, except when this is a culturally accepted practice;

~~(13)~~ (n) misrepresenting the types or status of certification licensure by performing or holding oneself out as able to perform professional services beyond the counselor's field of competence, or outside the scope of the certificate license, or

delegating professional responsibilities to a person not appropriately qualified to provide such services;

~~(14)~~ (o) committing any dishonest, corrupt, or fraudulent act which is substantially related to the qualifications, functions, or duties of the ~~certificate or any act that exploits a client~~ licensee;

~~(15)~~ (p) discriminating against or refusing professional services to anyone on the basis of race, color, gender, religion, national origin, disability, sexual orientation, or any basis prohibited by law;

(16) remains the same, but is renumbered (q);

~~(17)~~ (r) conviction of driving while under the influence of alcohol or drugs (DUI), or criminal possession of dangerous drugs at any time after issuance of a ~~certificate~~ license, and within the two years preceding an application for ~~certificate licensure~~ license;

(18) remains the same, but is renumbered (s).

~~(19)~~ (t) using mood altering chemicals in a manner adversely affecting work performance, effectiveness, credibility, or professional integrity;

(20) remains the same, but is renumbered (u).

~~(21)~~ (v) providing false or misleading information or documentation in the ~~certification application, or renewal process,~~ or in submission of continuing education information;

(w) failing to use current evidence-based contextually valid assessment instruments;

(x) failing to provide clients with complete explanation of the purpose of an assessment and limitations regarding content, validity, reliability, and norms for the persons served;

(y) using techniques including automated interpretation services or administering, scoring, or interpreting results of an assessment, without being able to produce appropriate evidence for the content validity of the procedures used in arriving at interpretations;

(z) failing to utilize evidence-based procedures and practices and observe relevant professional standards in developing assessment techniques;

(aa) failing to ensure that assessment results are accurate, detailed, and valid in a way that will be properly interpreted by the recipients;

(ab) encouraging and/or promoting the use of assessment techniques by inappropriately trained or otherwise unqualified individuals through teaching, sponsoring, or supervision;

(ac) exploiting in any manner the professional relationships with clients, former clients, supervisees, or students;

(ad) failing to exercise appropriate supervision over persons who are practicing under the supervision of the licensee;

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

(i) a prior association with the client or someone the client knows; or

(ii) knowledge about a client or someone the client knows without disclosing such potential for conflict to a client or potential client, and obtaining the client's consent for treatment despite the existing or potential conflict;

(af) causing a dual relationship with a client without first ensuring that the client's well-being is not compromised and that no harm occurs, such as the following:

(i) seeking consultation from supervisors or peers;

(ii) adhering to a credible decision-making process prior to entering the relationship;

(iii) supervision;

(iv) documentation; and

(v) disclosure and written informed consent from the client;

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

(ah) participating in bartering, unless bartering is considered to be essential for the provision of services negotiated without coercion, and entered into at the client's initiative and with the client's informed consent. Licensees who accept goods or services from clients as payment for professional services assume the full burden of demonstrating that this arrangement will not be detrimental to the client or the professional relationship;

(ai) falsifying or misrepresenting a record of supervision submitted in connection with an application for licensure;

(aj) engaging in the practice of licensed addiction counseling when the licensee's license is inactive, has expired, is terminated, or has been suspended or revoked;

(ak) failing to take reasonable steps to avoid abandoning clients;

(al) failing to make arrangements for consultation, co-therapy, or referrals in situations where the licensed addiction counselor cannot work effectively with the clients;

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

(an) failing to obtain informed consent from the clients regarding their treatment;

(ao) failing to create, maintain, disseminate, store, retain, and dispose of client records in an ethical manner that is in accordance with the law;

(ap) 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

(aq) 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.

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 department is amending this rule to update and streamline the text and language and include additional instances of behavior that will qualify as unprofessional conduct for LACs. These additions are reasonably necessary to adequately address the number and types of complaints that have been and are being filed with the department regarding LAC licensees. Additionally, the amendments will better align this rule with national LAC standards and codes and enable the department to better protect public safety and health. The department is amending (1)(m) to reflect the seven different tribes recognized in Montana and enable the provision of licensed addiction counseling services on the reservations within acceptable cultural practices.

24.154.2401 COMPLAINT PROCEDURE (1) A person, government, or private entity may submit a written complaint to the department charging an applicant or ~~certificate holder~~ licensee with a violation of department and program statutes or rules, and specifying the grounds for the complaint.

(2) remains the same.

(3) Upon receipt of the written complaint form, the ~~program office~~ department shall log in the complaint and assign it a complaint number. The complaint shall then be sent to the applicant or ~~certificate holder~~ licensee ~~complained about~~ referred to in the complaint for a written response. Upon receipt of the written response, both the complaint and response shall be considered by the review panel for appropriate action including dismissal, investigation, or a finding of reasonable cause of violation of a statute or rule. The ~~program office~~ department shall notify ~~both~~ the complainant and ~~certificate holder~~ either the licensee or applicant of the determination made by the review panel.

(4) If the ~~a reasonable cause violation determination is made by the review panel~~ finds reasonable cause of a violation, ~~the recommendation to the department shall be to undertake disciplinary proceedings under the Montana Administrative Procedure Act~~ applies.

AUTH: ~~37-1-402~~, 37-35-103, MCA

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

REASON: The department is amending this rule to update for current practices and terminology, and ease of use for the reader.

5. The rule proposed to be amended and transferred provides as follows, stricken matter interlined, new matter underlined:

24.154.421 (24.154.408) COUNSELORS CERTIFIED IN OTHER STATES LICENSURE BY ENDORSEMENT

(1) ~~Counselors certified~~ Licensed addiction counselors (LAC) licensed in other states or through the military may apply for a Montana ~~endorsement certification~~ license. ~~Certificates issued will specify "endorsement certificate" and indicate the state issuing the original certificate. The examinations may be waived if the applicant~~ To apply, applicants must:

(a) ~~meets the current Montana education requirements;~~

~~(b) documents 2000 hours (one year) supervised chemical dependency counseling experience in a chemical dependency treatment setting in another state;~~
~~(c) holds a current state certificate, in good standing, from another state; and~~
~~(d) shows successful completion of an examination process comparable to the Montana examinations (must have successfully completed a written examination and an oral examination).~~

(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 (NACC) 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.

~~(2) Individuals certified by branches of the military government may submit an application for Montana endorsement by providing documentation specified above and the current military certification. Applicants must also furnish the certification and examination requirements for the specific branch of the military.~~

~~(3) To apply for endorsement in Montana, the applicant must:~~

~~(a) complete the three page application for certification;~~

~~(b) attach documentation of education and required 2000 hours experience in a chemical dependency treatment setting in another state;~~

~~(c) provide a copy of the current certificate and standards required for certification by the certifying state, including a description of the examinations completed; and~~

~~(d) submit a completed registration form and pay the Montana registration fee.~~

~~(4) Individuals certified by a nationally recognized addiction organization prior to February 1, 1997 may submit an application for certification by exam. The educational requirement may be waived and the applicant may participate in the oral and written examination if the applicant:~~

~~(a) holds a current certificate, in good standing, from a nationally recognized addiction organization;~~

~~(b) has completed 270 contact hours of specific chemical dependency and counseling courses. These are contact hours that may be obtained through academic course work, approved workshop training or approved home study courses. The 270 hours must include minimum hours in each of the following areas:~~

~~(i) chemical dependency assessment and patient placement (must include chemical~~

- dependency assessment, biopsychosocial testing, diagnosis, referrals and patient placement) 30 hours
- (ii) counseling 45 hours
- (iii) pharmacology (must include drug classification, effects, detoxification and withdrawal) 12 hours
- (iv) ethics (ethics for addiction counselors) 6 hours
- (v) alcohol and drug studies 30 hours
- (vi) treatment planning and documentation 15 hours
- and
- (vii) multicultural competency—knowledgeable of and sensitive to the cultural factors and needs of diverse populations and demonstrate competency in applying culturally relevant skills 12 hours
- and
- (c) has completed 1000 hours (six months) supervised chemical dependency counseling experience in a chemical dependency treatment setting.
- (5) To apply for this certificate by examination in Montana, the applicant must:
 - (a) complete the three page application for certification and pay the Montana application fee;
 - (b) attach documentation of 270 education hours and the required 1000 hours supervised work experience in a chemical dependency treatment setting; and
 - (c) provide a copy of the applicant's current national certificate.
- (6) This certification by exam shall be available to applicants for a period of two years from October 27, 2000. All applicants after that date must apply for certification according to the requirements of the current statutes and rules.

AUTH: 37-35-103, MCA

IMP: ~~37-1-131~~, 37-35-103, MCA

REASON: The department determined it is reasonably necessary to relocate and renumber this rule so it directly follows the application procedure rule for better organization and ease of use. The department is further amending this rule to simplify and clearly delineate current licensure processes and reflect the proposed changes to the supervised work experience hours elsewhere in this notice. The department is amending (1)(b) to accommodate licensure for applicants who are unable to obtain the supervisor signatures for supervised work experience hours. The department is eliminating the use of "endorsement" to reduce confusion for licensees who might qualify for specific endorsements of their original license.

6. The proposed new rule provides as follows:

NEW RULE I 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 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 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) A license shall not be on inactive status for more than five consecutive years. At the end of the fifth year that a license has been on inactive status, the license must be converted to active status. If the license is not converted to active status, the provisions of 37-1-141, MCA, apply to the renewal, lapse, expiration, or termination of the license.

(3) An inactive status license does not entitle the licensee to practice as a licensed addiction counselor in Montana.

(4) Upon payment of the required fee in ARM 24.154.401, the licensee may convert an inactive license to an active license by:

(a) submitting satisfactory evidence that the licensee has not been out of active practice for more than five years; and

(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. The continuing education hours must have been acquired within the 24 months immediately preceding application to convert to active status.

AUTH: 37-35-103, MCA

IMP: 37-35-103, MCA

REASON: It is reasonably necessary to adopt this new rule to clearly set forth the process for LAC licensees to obtain, maintain, and convert licenses from inactive to active status. The processes align with those used by other department licensure boards and programs.

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

24.154.410 DOCUMENTATION REQUIRED FOR VERIFICATION OF 1000 HOURS SUPERVISED COUNSELING EXPERIENCE found at ARM page 24-14627.

AUTH: 37-35-103, MCA

IMP: 37-35-202, MCA

REASON: The department is repealing this rule and combining all the supervised work experience requirements through amendments to ARM 24.154.409 in this notice.

24.154.411 DIRECT SUPERVISION - MINIMUM HOURS REQUIRED found at ARM page 24-14628.

AUTH: 37-35-103, MCA

IMP: 37-35-202, MCA

REASON: The department is repealing this rule and combining all the supervised work experience requirements through amendments to ARM 24.154.409 in this notice.

24.154.415 CERTIFICATION PROCESS found at ARM page 24-14635.

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

REASON: The department is repealing this rule as all examination and supervision requirements are being relocated to ARM 24.154.407 and ARM 24.154.409 in this notice.

24.154.416 WRITTEN EXAMINATION found at ARM page 24-14636.

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

REASON: The department proposes to repeal this rule since all education requirements are being relocated to ARM 24.154.407 in this notice.

24.154.417 ORAL EXAMINATIONS found at ARM page 24-14637.

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

REASON: The department is repealing this rule as obsolete. In 2005, 37-35-202, MCA, was amended to eliminate the requirement for an oral examination.

8. 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 Licensed Addiction Counselors Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdcdc@mt.gov, and must be received no later than 5:00 p.m., May 15, 2013.

9. An electronic copy of this Notice of Public Hearing is available through the department and program's site on the World Wide Web at www.lac.mt.gov. 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.

10. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department regarding this program. 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 the person wishes to receive notices regarding all program 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 Licensed Addiction Counselors Program, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdcdc@mt.gov; or made by completing a request form at any rules hearing held by the agency.

11. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on August 7, 2009, by electronic mail.

12. Joslyn Hunt, attorney, has been designated to preside over and conduct this hearing.

/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 1, 2013