

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,)
24.154.409 supervised work)
experience, and 24.154.2301)
unprofessional conduct)

TO: All Concerned Persons

1. On November 27, 2013, the Department of Labor and Industry (department) published MAR Notice No. 24-154-9 regarding the public hearing on the proposed amendment of the above-stated rules, at page 2215 of the 2013 Montana Administrative Register, Issue No. 22.

2. On December 18, 2013, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the December 27, 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 discussed the problems inherent in chemical dependency practice and how such practice has changed throughout the years.

RESPONSE 1: The department acknowledges all comments received.

COMMENT 2: One commenter discussed in general the "rub" that must exist between graduate-level therapists versus those with two-year degrees.

RESPONSE 2: The department acknowledges all comments received.

COMMENT 3: One commenter noted that the phrase "evidence-based" frightens people and the commenter was not surprised that entities might not be accepting of an "evidence-based" practice.

RESPONSE 3: The department acknowledges all comments received.

24.154.301 DEFINITIONS:

COMMENT 4: Commenters indicated that removing the definition of "evidence-based" would remedy problems with what is currently a vague and ambiguous definition. Commenters also asserted that removing the "evidence-based" definition

would remedy the fact that the existing definition does not contain a citation to material adopted by reference.

RESPONSE 4: The department agrees that striking the definition of "evidence-based" is appropriate at this time, while stakeholders for this license type further explore establishing an "evidence-based" standard of practice and a resultant definition.

COMMENT 5: Two commenters indicated the definition of "evidence-based" and the "practice guidelines" should be maintained, because they are well recognized and accepted among mental health professionals. One commenter stated that the "evidence-based" definition is critical to the practice of licensed addiction counseling, because it provides a high standard of practice and it is irresponsible to remove it as a standard.

RESPONSE 5: The department appreciates the fact that some licensees may want to establish an "evidence-based" standard of practice for the licensed addiction counselor profession. After consideration, the department determined that such a standard is best established in a different manner. No "practice guidelines" existed in the prior rules, nor were any previously proposed. Rather, the definition of "evidence-based" resulted from reference to it in the unprofessional conduct rule. Without more, that reference and resultant definition may confuse licensees regarding what fully the standard of practice is and how actions constitute a failure of that standard. The department believes stakeholders for this license type need to further explore establishing an "evidence-based" standard of practice and a resultant definition in the future.

24.154.409 SUPERVISED WORK EXPERIENCE:

COMMENT 6: Commenters stated that the trifurcated supervised work experience system, based on the degree the licensees received, exceeded statutory authority and lacked supporting evidence for such a system. Commenters suggested that returning to the prior 1000 supervised work experience hours for all licensees, regardless of the degree received, would correct the stated problems.

RESPONSE 6: The department agrees returning to the prior supervised work experience requirement is appropriate at this time, while stakeholders for this license type further explore the supervised work experience system.

COMMENT 7: One commenter indicated that it does not make sense to require Licensed Clinical Professional Counselors, who desire a dual credential by also becoming Licensed Addiction Counselors, to obtain more supervisory experience than an applicant with an associate or baccalaureate degree.

RESPONSE 7: The department appreciates that several of its licensees are dual credentialed and that those licensees have already obtained supervised work experience hours with regard to their other licenses. After consideration, the

department determined that a separate dual credential standard is best established by proposing a new rule. Rather than trifurcating the supervised work experience for associate, baccalaureate, and master degrees, it is better to delineate a separate rule that would address the situation faced by master-degree applicants at a future date.

COMMENT 8: One commenter asserted that at least a two-tiered system should exist for supervised work experience, whereby associate-level applicants would have a higher supervised work experience requirement than baccalaureate or master-degree applicants. This commenter stated associate-level applicants require more supervised work experience, because an associate degree does not adequately prepare an applicant to practice licensed addiction counseling.

Consequently, to ensure protection for the public, the commenter requested that the department establish a two-tiered system. By returning to the prior 1000 supervised work experience hour requirement, this commenter indicated that the standard of care for the profession was lowered.

RESPONSE 8: Establishing a two-tiered system is outside the scope of the rule notice. The department acknowledges all comments received and notes that the legislature has indicated a person with an associate degree is just as equipped to practice licensed addiction counseling as applicants with baccalaureate or master degrees. After consideration, the department determined that establishing a different standard of practice based on the education an applicant receives is better addressed in a different manner and believes stakeholders for this license type need to further explore the supervised work experience system.

COMMENT 9: One commenter requested that the department add levels of care that are not defined by the ASAM, such as intensive in-home treatment.

RESPONSE 9: The department acknowledges all comments received and notes that this comment is outside the scope of the rule notice.

24.154.2301 UNPROFESSIONAL CONDUCT:

COMMENT 10: Commenters supported striking the instances of unprofessional conduct that reference "evidence-based" practice, procedures, and assessments, stating this would remedy problems faced by licensees not knowing what actions or failures to act would equate to unprofessional conduct.

RESPONSE 10: The department agrees with the comments.

COMMENT 11: One commenter asked the department to keep the unprofessional conduct language proposed to be stricken, stating that removing the language would be irresponsible and will not provide for public protection. The commenter asserted that the public needs to know that licensed addiction counselors must follow evidence-based principles because doing so provides the highest level of care.

RESPONSE 11: As with the definition of "evidence-based," the department appreciates that some licensees may want to establish an "evidence-based" standard of practice for the licensed addiction counselor profession. After consideration, the department determined that such a standard is best established in a different manner. No "practice guidelines" existed in the prior rules, nor were any previously proposed. Rather, the definition of "evidence-based" resulted from reference to it in the unprofessional conduct rule. Without more, that reference and resultant definition may confuse licensees regarding what fully the standard of practice is and how actions constitute a failure of that standard. The department believes stakeholders for this license type need to further explore establishing an "evidence-based" standard of practice and resultant unprofessional conduct rules in the future.

4. The department has amended ARM 24.154.301, 24.154.409, and 24.154.2301 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 January 6, 2014