

BEFORE THE BOARD OF PSYCHOLOGISTS  
DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the amendment of ) NOTICE OF AMENDMENT  
ARM 24.189.301 definitions, )  
24.189.607 supervisory experience, )  
and 24.189.2104 and 24.189.2107 )  
pertaining to continuing education )

TO: All Concerned Persons

1. On February 11, 2010, the Board of Psychologists (board) published MAR notice no. 24-189-32 regarding the public hearing on the proposed amendment of the above-stated rules, at page 302 of the 2010 Montana Administrative Register, issue no. 3.

2. On March 4, 2010, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the March 12, 2010, deadline.

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

ALL COMMENTS PERTAIN TO ARM 24.189.301:

COMMENT 1: One commenter opposed the proposed amendments to the definition of "one year's academic residency" stating that there has been no scientific or anecdotal evidence that clearly demonstrates the need to amend the current definition. The commenter also stated there is no proof that any Montana licensed psychologists who were trained under the present definition are compromising the quality of psychologists in Montana.

RESPONSE 1: The board acknowledges that while there may be no proof or scientific studies indicating that applicants trained online are a problem, the board also notes that there are no studies or scientific evidence to prove in the other direction. There is just no data and this comment is not relevant to the proposed rule change. The proposed amendment is not proposed to address practice complaint issues. The board proposed this amendment to clarify the definition because some applicants do not appear to understand what is meant by "one year's academic residency". The board determined it is necessary to clarify this definition for students as well, so they can be clear on the licensing requirements, prior to choosing an educational program. This rule amendment is about the board's belief as to what is necessary to have a solid, well-rounded, minimally adequate education in psychology, so as to adequately protect the public.

COMMENT 2: A commenter opposed the amendment to ARM 24.189.301, stating it is unclear whether the new rule would apply to pending applications or those applicants still completing their postdoctoral training. The commenter stated that the proposed rule would "unjustly burden" students who have relied upon the current rule and would prevent students who already have their doctorates from taking additional residency credits or transferring to a different school.

RESPONSE 2: The board reiterates that this is a necessary clarification of the standard that the board has had in place for some years. The board reviews individual applications in accordance with the statutes and administrative rules in effect at the time of the board's review. The board notes that residency is part of the doctoral degree and not something that is added on after a degree is obtained and that nothing prevents someone from transferring to a different school.

COMMENT 3: One commenter opined that the reasonable necessity statement does not adequately justify the proposed amendments and would not withstand judicial scrutiny, because the board did not state that the current rule is unworkable, or that unqualified applicants have been presented to the board. The commenter also pointed out that the board has not discussed studies that address why the changes are necessary, nor alternatives considered by professional groups or other licensing boards.

RESPONSE 3: The board notes that the reasonable necessity requirements of the Montana Administrative Procedure Act (MAPA) have been met. The board is amending this rule to further clarify an existing statute which directs the board to define minimum standards for licensure in rule. The amendment is necessary to clarify an existing definition in the minimum standards rule. The board notes that obtaining alternatives from professional groups or other licensing boards is not required for rulemaking.

COMMENT 4: One commenter asked why the board did not address that the American Psychological Association's (APA) accreditation standards do not require the type of residency contained in the proposed definition.

RESPONSE 4: The board notes that psychologists deal with the most complex and vulnerable people, and complicated ethical issues such as duty to warn and involuntary commitment. These types of skills require hands-on training. This proposed amendment is a clarification of the existing residency definition and not a change in the residency requirements. In 2007, this board authored a letter to the APA supporting the board's belief in the necessity of physical presence for residency. The board also notes that a recent document from the APA Committee on Accreditation describing the primary purposes of residency mirrors the concepts of this rule with the proposed amendments.

COMMENT 5: A commenter opposed the proposed changes to the residency definition saying that they "effectively outlaw online and distance learning activities" for people seeking licensure as psychologists in Montana. The commenter also

stated that the board has not provided any studies showing that individuals with graduate credentials through online or distance learning are any less capable or competent than those who attended a conventional brick-and-mortar institution.

RESPONSE 5: The board disagrees with the statement that the rule change outlaws all online and distance learning. Some distance learning for some types of academic material is fine, but other areas of competence must be assessed by working closely with professors, supervisors, and other students over time. Continuous time together is necessary to assess professional development, emotional stability and well-being, and interpersonal competence of those psychologists obtaining a doctoral degree. These areas must be monitored on a continuous basis for a duration of time. This rule requires only one year of on-site residency. The board has not taken a position against online education. The board discussed the comment that there is no proof or scientific studies that applicants trained online are a problem. It was noted that there are no studies or scientific evidence to prove in the other direction, either. There is just no data and this comment is not relevant to the proposed rule change.

4. The board has amended ARM 24.189.301, 24.189.607, 24.189.2104, and 24.189.2107 exactly as proposed.

BOARD OF PSYCHOLOGISTS  
GEORGE WATSON, PhD., CHAIRPERSON

/s/ DARCEE L. MOE  
Darcee L. Moe  
Alternate Rule Reviewer

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 14, 2010