

BEFORE THE BOARD OF SOCIAL WORK EXAMINERS
AND PROFESSIONAL COUNSELORS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of ARM)
24.219.301 definitions, 24.219.401 and)
24.219.405 fees, 24.219.501)
application, 24.219.504 licensure,)
24.219.509 status conversion,)
24.219.601 application, 24.219.604)
licensure, 24.219.609 status conversion,)
24.219.2101 and 24.219.2201)
continuing education, 24.219.2301 and)
24.219.2305 unprofessional conduct,)
pertaining to social work examiners and)
professional counselors)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On January 20, 2009, at 1:30 p.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment 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 Social Work Examiners and Professional Counselors (board) no later than 5:00 p.m., on January 16, 2009, to advise us of the nature of the accommodation that you need. Please contact Cynthia Breen, Board of Social Work Examiners and Professional Counselors, 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 dlibsdswp@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: Authority and implementation cites are being amended throughout the rules to accurately reflect all statutes implemented through the rules, to provide the complete sources of the board's rulemaking authority, and to delete references to repealed statutes.

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

24.219.301 DEFINITIONS (1) remains the same but is renumbered (5).

(2) remains the same but is renumbered (1).

~~(3) (8) "Qualified supervisor" means a licensed social worker, licensed psychologist, or a licensed and board-certified psychiatrist.~~ "Supervisor," when used

to refer to a person who supervises the work of an applicant for licensure, means a licensed clinical social worker, a licensed clinical professional counselor, a licensed psychologist, or a licensed and board-certified psychiatrist. A supervisor shall have three years of post-licensure experience or board-approved training in clinical supervision. A For social work applicants, a licensed psychologist or psychiatrist shall only qualify to supervise up to one half of the total post-graduate hours required, with a licensed social worker supervisor required for at least half and a supervisor holding the license for which the applicant has applied must supervise at least half of the total post-graduate hours required for licensure.

(4) remains the same but is renumbered (2).

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

(3) "Dual relationship" means a situation in which a licensee is in a professional role with a person and:

(a) at the same time is in another role with the same person;

(b) at the same time is in a relationship with a person closely associated with or related to the person with whom the licensee has the professional relationship; or

(c) promises to enter into another relationship in the future with the person or a person closely associated with or related to the person.

(4) "Exploitation" means the manipulation or use or the attempted manipulation or the attempted use of a professional relationship with a client, student, or supervisee 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.

(7) "Sexual contact" includes but is not limited to sexual intercourse, either genital or anal, cunnilingus, fellatio, or the handling of the breasts, genital areas, buttocks, or thighs, whether clothed or unclothed.

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-22-102, ~~37-22-201~~, 37-23-101, 37-23-102, MCA

REASON: The board discovered that some applicants are not receiving the quality of supervision the board determined is necessary for licensure. The board also concluded that social work applicants should receive at least half of their post-graduate training from supervisors holding a social work license to ensure that applicants understand the methodology and generally accepted practices of social workers. The board is therefore amending the definition of "supervisor" accordingly and to achieve consistency in terminology used throughout the rules. The board is adding definitions for "dual relationship," "exploitation," and "sexual contact" to address confusion and clarify the unprofessional conduct rules.

24.219.401 FEE SCHEDULE FOR SOCIAL WORKERS

(1) through (4) remain the same.

(5) Inactive license fee (based on annual renewal)

50

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

AUTH: 37-1-134, 37-22-201, ~~37-22-302~~, MCA

IMP: 37-1-134, 37-1-141, ~~37-22-301~~, 37-22-302, MCA

REASON: The board is amending ARM 24.219.401 and 24.219.405 to set reasonable annual fees for placing a social worker or professional counselor license on inactive status and renewing on inactive status. In reviewing board processes, department staff discovered that there is no separate process for maintaining an inactive license even though they involve less work and time than active licenses. Inactive licensees are currently required to pay \$100 for each year the license was on inactive status when they convert back to active status. The board determined it is reasonably necessary to reduce this fee to be commensurate with the actual costs of processing inactive licenses and to require the fee each year at renewal. The board estimates that the fee change will affect approximately 145 inactive social workers and professional counselors and will result in a decrease in annual board revenue of \$7250.

24.219.405 FEE SCHEDULE FOR PROFESSIONAL COUNSELORS

(1) through (4) remain the same.

(5) Inactive license fee (based on annual renewal) 50

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

AUTH: 37-1-134, 37-22-201, MCA

IMP: 37-1-134, 37-1-141, 37-23-206, MCA

24.219.501 APPLICATION PROCEDURES

(1) through (4) remain the same.

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

(6) 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.

(7) If the applicant fails to satisfy the requirements for licensure within one year of the date the application is determined by the department to be complete, the application will expire, the application fee will be forfeited, and a new completed application and application fee will be required.

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-22-301, MCA

REASON: The board determined it is reasonably necessary to amend this rule and ARM 24.219.601 to limit an applicant's retaking of the licensure examination. Licensing examination providers and the Association of Social Work Boards (ASWB) have discovered that individuals are taking the examinations multiple times in order to share examination questions and answers with others. The board considers the examination to be an important indicator of an applicant's competence and is amending this rule to adopt provisions of the Model Social Work Practice Regulations of the ASWB that will make it more difficult for these individuals to defeat the integrity of the examination. The board also concluded that applicants

legitimately attempting to pass the examination but who had failed a number of times had not demonstrated that they were minimally competent to practice. The board determined that the public would be better protected and the applicants better prepared if those applicants were required to develop a plan that would help them attain minimal competence prior to retaking the examination.

24.219.504 LICENSURE REQUIREMENTS (1) and (1)(a) remain the same.

(b) supervision, on a form approved by the board, which shall include at least 100 documented hours of individual or group supervision by a qualified supervisor. At least 50 percent of the 100 hours shall be individual and face-to-face by a licensed social worker, and at least ten hours of which includes direct observation of the service delivery. Each supervisory session shall be documented with ~~the following information:~~ a record of supervision. The applicant must maintain the record of supervision, which may be requested by the board and must include:

(i) and (ii) remain the same.

(iii) content summary (excluding confidential information);

(iv) evidence of the applicant's minimal competencies in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of imminent danger, and implementing a professional and ethical relationship with clients and colleagues;

(v) content demonstrating the applicant's developing competence in the areas identified in (1)(b)(iv); and

(vi) attestation of the record of supervision by the supervisor. Falsification or misrepresentation of the record of supervision shall be considered unprofessional conduct and may result in discipline of the supervisor's license.

(c) through (2) remain the same.

AUTH: 37-1-131, 37-22-201, MCA

IMP: 37-1-131, 37-22-102, 37-22-201, 37-22-301, MCA

REASON: The board determined that the current requirements for documentation of applicants' supervision were often inadequate to show that the applicants were minimally competent to practice. The board concluded that having a more formal record of supervision would enable the board to make a better determination about a licensee's qualifications and ensure consistent quality of supervision. The board is amending this rule and ARM 24.219.604 to clearly and adequately set forth the information needed by the board. The board is also amending this rule to require that supervisors attest to the record of supervision to prevent application fraud and ensure that applicants receive the required supervision.

24.219.509 APPLICATION TO CONVERT AN INACTIVE STATUS LICENSE TO AN ACTIVE STATUS LICENSE 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 board office, 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 board informed as to any change 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.

~~(4)~~ (3) An inactive status license does not entitle the holder to practice as a licensed social worker in the state of Montana. Upon application and payment of the ~~appropriate fee~~ required fee in accordance with ARM 24.219.401, the board may ~~reactivate~~ convert an inactive license if the applicant does each of the following:

(a) signifies to the board in writing that, upon issuance of the active license, the applicant intends to be an active practitioner in the state of Montana; ~~and~~

(b) presents satisfactory evidence that the applicant has not been out of active practice for more than five years; and that the applicant has attended ~~20~~ 10 hours of continuing education per year of inactive status with a maximum of ~~40~~ 50 hours of continuing education which comply with the continuing education rules of the board, and is approved by the board. The continuing education hours must have been acquired within the 24 months immediately preceding application to ~~reactivate~~ convert to active status; and

(c) remains the same.

AUTH: 37-1-319, 37-22-201, MCA

IMP: 37-1-319, MCA

REASON: The board notes that current rules provide for converting inactive licenses to active licenses, but contain no provisions for placing a license on inactive status. The board is amending this rule and ARM 24.219.609 to specify processes for putting social worker and professional counselor licenses on inactive status to address licensee confusion and correct the omission from the rules. The board is amending the catchphrases of both rules to more accurately reflect the content.

24.219.601 APPLICATION PROCEDURE (1) through (4) remain the same.

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

(6) 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.

(7) If the applicant fails to satisfy the requirements for licensure within one year of the date the application is determined by the department to be complete, the application will expire, the application fee will be forfeited, and a new completed application and application fee will be required.

AUTH: 37-1-131, 37-22-201, 37-23-103, MCA

IMP: 37-1-131, 37-23-202, MCA

REASON: See the reasonable necessity statement for ARM 24.219.501.

24.219.604 LICENSURE REQUIREMENTS (1) For the purpose of 37-23-202, MCA, a planned graduate program of study is one which requires 60 semester hours (90 quarter hours), primarily counseling in nature, six semester hours (nine quarter hours) of which were earned in an advanced counseling practicum which resulted in a graduate degree from an institution accredited to offer a graduate program in counseling. An institution accredited to offer such a degree program is a college or university accredited by various associations of colleges and secondary schools. The planned graduate program shall be recognized by the department chairman or an equivalent position. The applicant's planned graduate program shall meet the following minimum board requirements:

(a) an identifiable starting date evidenced by a letter of admission to the program, or other similar document;

(b) completion of current Council for Accreditation of Counseling and Related Educational Programs (CACREP) core courses as evidenced by submission of a summary sheet on education on a form prescribed by the board;

(c) acceptance of a maximum of 12 post-baccalaureate graduate semester (18 quarter) credits or up to 20 semester (30 quarter) credits of a completed graduate counseling degree transferred from other institutions or programs; and

(d) acceptance of credits granted six years or less from the applicant's date of graduation from the planned graduate program. ~~Credits shall be completed in the following areas:~~

~~(a) counseling theory;~~

~~(b) counseling techniques; and~~

~~(c) supervised counseling experience (this practicum shall be practica taken at the graduate school level which includes supervision by a counselor educator with a minimum of one hour of face-to-face consultation with the supervisor for every ten hours of practicum site experience) and at least six hours in each of the following areas:~~

~~(i) Human growth and development includes studies that provide a broad understanding of the nature and needs of individuals at all developmental levels. Emphasis is placed on psychological, sociological and physiological approaches. Also included are areas such as human behavior (normal and abnormal), personality theory and learning theory, and demonstrated competence and familiarity in the use of current professional diagnostic manuals.~~

~~(ii) Social and cultural foundations includes studies of change, ethnic groups, subcultures, changing roles of women, sexism, urban and rural societies, population patterns, cultural mores, use of leisure time and differing life patterns.~~

~~(iii) The helping relationship includes philosophic bases of the helping relationship, consultation theory and/or an emphasis on the development of counselor and client (or consultee) self-awareness and self-understanding.~~

~~(iv) Groups includes theory and types of groups, as well as descriptions of group practices, methods dynamics and facilitative skills. It includes either a supervised practice and/or a group experience.~~

~~(v) Life-style and career development includes areas such as vocational-choice theory, relationship between career choice and life-style, sources of occupational and educational information, approaches to career decision-making processes and career development exploration techniques.~~

~~(vi) Appraisal of the individual includes the development of a framework for understanding the individual, including methods of data gathering and interpretation, individual and group testing, case-study approaches and the study of individual differences. Ethnic, cultural and sex factors are also considered.~~

~~(vii) Research and evaluation includes areas such as statistics, research design and development of research and demonstration proposals. It also includes understanding legislation relating to the development of research, program development and demonstration proposals, as well as the development and evaluation of program objectives.~~

~~(viii) Professional orientation includes goals and objectives of professional counseling organizations, codes of ethics, legal consideration, standards of preparation, certification and licensing and role identity of counselors.~~

~~(2) through (3)(g)(iii) remain the same.~~

~~(iv) a final log detailing dates and durations of supervisory contacts and issues discussed during these contacts may be requested by the board; a record of supervision must be maintained by the applicant and may be requested by the board in its review of the application. The record of supervision must include:~~

~~(A) date and length of supervision in increments not less than 15 minutes;~~

~~(B) names of applicant, supervisor (including type of license and number) and signatures of both;~~

~~(C) content summary (excluding confidential information);~~

~~(D) evidence of the applicant's minimal competencies in the areas of an identified theory base, application of a differential diagnosis, establishing and monitoring a treatment plan, development and appropriate use of the professional relationship, assessing the client for risk of imminent danger, and implementing a professional and ethical relationship with clients and colleagues;~~

~~(E) content demonstrating the applicant's developing competence in the areas identified in (3)(g)(iv)(D); and~~

~~(F) attestation of the record of supervision by the supervisor. Falsification or misrepresentation of the record of supervision shall be considered unprofessional conduct and may result in discipline of the supervisor's license.~~

~~(v) through (5) remain the same.~~

AUTH: 37-1-131, 37-22-201, ~~37-23-103~~, MCA

IMP: 37-1-131, 37-23-202, MCA

REASON: The board is amending (1) of this rule to specify the board's intent that the core courses in a professional counselor applicant's planned graduate program meet current and not past CACREP standards. The board is amending the supervision record requirements in (3) for the reasons stated for the proposed amendment of ARM 24.219.504.

24.219.609 APPLICATION TO CONVERT AN INACTIVE STATUS LICENSE TO AN ACTIVE STATUS LICENSE 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 board office, 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 board informed as to any change 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.

~~(4)~~ (3) An inactive status license does not entitle the holder to practice as a licensed professional counselor in the state of Montana. Upon application and payment of the appropriate fee required fee in accordance with ARM 24.219.405, the board may reactivate convert an inactive license if the applicant does each of the following:

(a) signifies to the board in writing that, upon issuance of the active license, the applicant intends to be an active practitioner in the state of Montana; and

(b) presents satisfactory evidence that the applicant has not been out of active practice for more than five years; and that the applicant has attended ~~20~~ 10 hours of continuing education per year of inactive status with a maximum of ~~40~~ 50 hours of continuing education which comply with the continuing education rules of the board, and is approved by the board. The continuing education hours must have been acquired within the 24 months immediately preceding application to ~~reactivate~~ convert to active status; and

(c) remains the same.

AUTH: 37-1-319, 37-22-201, ~~37-23-103~~, MCA

IMP: 37-1-319, MCA

REASON: See the reasonable necessity statement for ARM 24.219.509.

24.219.2101 HOURS, CREDITS, AND CARRY OVER (1) Each social work licensee of the Board of Social Work Examiners and Professional Counselors shall earn 20 clock hours of accredited continuing social work education ~~for~~ each year after 1985. The 20 clock hours required shall include a minimum of 2 clock hours of instruction in ethics. Clock hours or contact hours shall be the actual number of hours during which instruction was given.

(2) through (5) remain the same.

AUTH: 37-1-131, 37-1-319, 37-22-201, MCA

IMP: 37-1-131, 37-1-306, MCA

REASON: The board determined it is reasonable and necessary to amend this rule and ARM 24.219.2201 to require that all board licensees take continuing education (CE) in ethics. The board concluded that requiring that ethics comprise at least 2 of the required 20 clock hours of annual CE will remind licensees of their ethical obligations and keep them apprised of the generally accepted standards of professional conduct.

24.219.2201 HOURS, CREDITS, AND CARRY OVER (1) Each licensee of the Board of Social Work Examiners and Professional Counselors shall earn 20 clock hours of accredited continuing professional counselor education for each year after 1986. The 20 clock hours required shall include a minimum of 2 clock hours of instruction in ethics. Clock hours or contact hours shall be the actual number of hours during which instruction was given.

(2) through (5) remain the same.

AUTH: 37-1-131, 37-1-319, 37-22-201, MCA

IMP: 37-1-131, 37-1-306, MCA

REASON: See the reasonable necessity statement for ARM 24.219.2101.

24.219.2301 UNPROFESSIONAL CONDUCT FOR SOCIAL WORKERS

(1) ~~Violation of any of the following constitutes unprofessional conduct: Any violation of this rule constitutes unprofessional conduct.~~

(2) A licensee shall not:

(a) through (c) remain the same.

~~(d) Have sexual relations with a client, solicit sexual relations with a client or to commit an act of sexual misconduct or a sexual offense if such act, offense or solicitation is substantially related to the qualifications, functions or duties of the licensee. Accept as clients persons with whom he or she has engaged in sexual contact.~~

~~(e) Engage in sexual acts with a client or with a person who has been a client within the past 18 months. A licensee shall not provide social work services to a person with whom the licensee has had a sexual relation at any time. Engage in sexual contact or a romantic relationship with current clients.~~

~~(f) Engage in sexual contact with a former client for at least three years after termination of professional services. The licensee who engages in such activity after three years following termination of professional services bears the burden of demonstrating that there has been no exploitation, in light of all relevant factors, including:~~

~~(i) the amount of time that has passed since professional services terminated;~~

~~(ii) the nature and duration of the professional services;~~

~~(iii) the circumstances of termination;~~

~~(iv) the client's personal history;~~

~~(v) the client's current mental status;~~

~~(vi) the likelihood of adverse impact on the client; and~~

(vii) any statements or actions made by the licensee during the defined professional relationship suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the client.

(f) through (h) remain the same but are renumbered (g) through (i).

(i) Engage in a dual relationship with a client or former client if the dual relationship has the potential to compromise the client's well being, impair the licensee's objectivity and professional judgment, or creates or increases the risk of exploitation of the client. If a dual relationship arises as a result of unforeseeable and unavoidable circumstances, the licensee shall promptly take appropriate professional precautions. Appropriate professional precautions must ensure that the client's well being is not compromised and that no exploitation occurs and should include consultation, supervision, documentation, or obtaining written informed consent of the client.

(k) Participate 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.

(l) Falsify or misrepresent a record of supervision submitted in connection with an application for licensure.

AUTH: 37-1-131, 37-1-319, 37-22-201, MCA

IMP: 37-1-131, 37-1-306, 37-1-316, 37-1-319, 37-22-201, MCA

REASON: The board determined it is reasonably necessary to amend this rule and ARM 24.219.2305 to address confusion among readers through better organization and by clarifying certain types of unprofessional conduct. The board is also amending both rules to establish consistency in format and language between the unprofessional conduct rules of social workers and professional counselors.

The board has determined it is reasonably necessary to amend the prohibition on sexual contact with former clients. The board concluded that due to the severity of the harm caused by such relationships, eighteen months between ending professional services and sexual contact with a client is not sufficient to ensure the protection of the public. Therefore, the board is amending these rules to require a minimum of three years between terminating professional social work and counseling services and initiating sexual contact with a former client.

The board has noticed an increase in the number of complaints involving licensees and clients engaged in dual relationships. The board also concluded that in many cases, the resultant harm to the client is severe and the dual relationship impedes the client's ability to receive appropriate care. The board is amending these rules to adequately and clearly set forth the prohibition of some dual relationships as unprofessional conduct.

Studies recognizing the potential for bartering relationships to become harmful to clients have prompted national professional associations to restrict bartering in their codes of conduct. The board is amending these rules to restrict

bartering between licensees and clients and reduce the potential for client harm in professional relationships.

It is reasonably necessary to amend these rules and include the falsification of supervision records as unprofessional conduct to prohibit fraud by license applicants or their supervisors and to comply with proposed amendments to ARM 24.219.504 and 24.219.604.

24.219.2305 UNPROFESSIONAL CONDUCT FOR PROFESSIONAL COUNSELORS (1) ~~Violation of any of the following constitutes unprofessional conduct:~~ Any violation of this rule constitutes unprofessional conduct.

(2) A licensee shall not:

(a) through (c) remain the same.

~~(d) Have sexual relations with a client, solicit sexual relations with a client or to commit an act of sexual misconduct or a sexual offense if such act, offense or solicitation is substantially related to the qualifications, functions or duties of the licensee.~~ Accept as clients persons with whom he or she has engaged in sexual contact.

~~(e) Engage in sexual acts with a client or with a person who has been a client within the past 18 months. A licensee shall not provide licensed professional counselor services to a person with whom the licensee has had a sexual relation at any time.~~ Engage in sexual contact or a romantic relationship with current clients.

(f) Engage in sexual contact with a former client for at least three years after termination of professional services. The licensee who engages in such activity after three years following termination of professional services bears the burden of demonstrating that there has been no exploitation, in light of all relevant factors, including:

(i) the amount of time that has passed since professional services terminated;

(ii) the nature and duration of the professional services;

(iii) the circumstances of termination;

(iv) the client's personal history;

(v) the client's current mental status;

(vi) the likelihood of adverse impact on the client; and

(vii) any statements or actions made by the licensee during the defined professional relationship suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the client.

~~(f) through (h) remain the same but are renumbered (g) through (i).~~

(i) Engage in a dual relationship with a client or former client if the dual relationship has the potential to compromise the client's well being, impair the licensee's objectivity and professional judgment, or creates or increases the risk of exploitation of the client. If a dual relationship arises as a result of unforeseeable and unavoidable circumstances, the licensee shall promptly take appropriate professional precautions. Appropriate professional precautions must ensure that the client's well being is not compromised and that no exploitation occurs and should include consultation, supervision, documentation, or obtaining written informed consent of the client.

(k) Participate 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.

(l) Falsify or misrepresent a record of supervision submitted in connection with an application for licensure.

AUTH: 37-1-131, 37-1-319, 37-22-201, ~~37-23-103~~, MCA

IMP: 37-1-131, 37-1-316, 37-1-319, MCA

REASON: See the reasonable necessity statement for ARM 24.219.2301.

5. 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 Social Work Examiners and Professional Counselors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdsdp@mt.gov, and must be received no later than 5:00 p.m., January 28, 2009.

6. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at www.swpc.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.

7. 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 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 Social Work Examiners and Professional Counselors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdsdp@mt.gov, or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

9. Don Harris, attorney, has been designated to preside over and conduct this hearing.

BOARD OF SOCIAL WORK EXAMINERS
AND PROFESSIONAL COUNSELORS
LINDA CRUMMET, LCSW, PRESIDENT

/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 December 15, 2008