

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

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 24.101.413 renewal dates and) ADOPTION
requirements, and the adoption of)
New Rules I through XIII licensure)
and regulation of marriage and family)
therapists)

TO: All Concerned Persons

1. On April 14, 2011, the Board of Social Work Examiners and Professional Counselors (board) published MAR notice no. 24-219-24 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 550 of the 2011 Montana Administrative Register, issue no. 7.

2. On May 5, 2011, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the May 13, 2011, deadline.

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

COMMENT 1: Numerous commenters supported the adoption of the new rules regarding marriage and family therapy.

RESPONSE 1: The board appreciates all the public input in the drafting of these rules and for all comments received in the rulemaking processes.

COMMENT 2: One commenter requested clarification regarding the scope of practice for licensed marriage and family therapists (LMFTs).

RESPONSE 2: The scope of practice of LMFTs is defined in 37-37-102(4) and (5), MCA. While it is inappropriate for the board to make a legal determination regarding the scope of practice for LMFTs, in the context of this rulemaking process, psychological testing and evaluation is not clearly described in the statute defining marriage and family therapists' practice areas.

COMMENT 3: One commenter inquired as to whether LMFTs can perform psychological evaluations and child custody evaluations.

RESPONSE 3: Senate Bill 235 (2009), codified at 37-17-104(3), MCA, specifically provides, "The board of social work examiners and professional counselors shall adopt rules that qualify a licensee under Title 37, chapter 22 or 23, to perform

psychological testing, evaluation, and assessment. The rules for licensed clinical social workers and professional counselors must be consistent with the guidelines of their respective national associations." The plain language of this statute does not give the board authority to address the scope of practice of marriage and family therapists.

4. The department has amended ARM 24.101.413 exactly as proposed.

5. The board has adopted NEW RULE I (24.219.409), NEW RULE II (24.219.701), NEW RULE III (24.219.704), NEW RULE IV (24.219.707), NEW RULE V (24.219.709), NEW RULE VI (24.219.712), NEW RULE VII (24.219.715), NEW RULE VIII (24.219.807), NEW RULE IX (24.219.2001), NEW RULE X (24.219.2004), NEW RULE XI (24.219.2007), NEW RULE XII (24.219.2010), and NEW RULE XIII (24.219.2309) exactly as proposed.

BOARD OF SOCIAL WORK EXAMINERS
AND PROFESSIONAL COUNSELORS
LINDA CRUMMETT, 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 October 3, 2011