

Montana Criminal Justice System EAQs #2

Prepared for the Commission on Sentencing
By Rachel Weiss, Research Analyst
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Background

This EAQ document differs from the traditional “frequently asked questions” (FAQ) documents in that the questions addressed are not always frequently asked, but rather that they are *comparatively* “easily answered” questions about Montana’s criminal justice system. The questions in this edition were generated during the March 1-2, 2016, Commission on Sentencing meeting unless otherwise noted. Other questions posed by commissioners during that meeting will be addressed during the June 22-23 meeting.

Questions and Answers

Judicial Branch

Provide a copy of the Conference of State Court Administrators (COSCA) policy paper about problem-solving courts when it becomes available. (Nov. 2015)

A copy of the paper is available using the link below. If you would prefer a hard copy of the report, please e-mail or call me.

Link: <http://leg.mt.gov/content/Committees/Interim/2015-2016/Sentencing/Committee-Topics/Study-Resources/cosca-problem-solving-courts-14-15.pdf>

What is the statutory language establishing the Sentence Review Division? Is there grant rate data?

The Sentence Review Division is established in Title 46, chapter 18, part 9, MCA. The three district court judges who make up the review division are appointed by the chief justice of the Montana Supreme Court for 3-year terms. The current members are the Honorable Brad Newman (2nd Judicial District), the Honorable Kathy Seeley (1st Judicial District), and the Honorable Brenda Gilbert (6th Judicial District). Judge Gilbert serves as the presiding officer.

According to SRD rules, the division doesn’t consider issues that could or should have been addressed by a district court in an appeal or a postconviction relief proceeding. Appeals and postconviction relief proceedings are governed by other provisions in Title 46.

The division also presumes that the district court’s sentence is correct and does not reduce or increase a sentence unless it is “clearly inadequate or clearly

excessive.” Typically, about 200-220 cases are filed with the division each year, and about 25% of petitioners waive the hearing before the panel.

The statutes governing the division are printed below, as is a link to the October 2013 division rules. Links are also provided to the laws governing appeals and postconviction relief.

46-18-901. Review division of supreme court -- review of sentences. (1) The chief justice of the supreme court of Montana shall appoint three district court judges to act as a review division of the supreme court and shall designate one of the judges to act as presiding officer of the review division. The clerk of the Montana supreme court shall record the appointment and shall give notice of the appointment to the clerk of every district court.

(2) The review division shall meet at least four times a year as its business requires, as determined by the presiding officer. The review division shall hold its meetings at locations as determined by the review division.

(3) The decision of two of the judges is sufficient to determine any matter before the review division.

(4) The review division may adopt any rules that will expedite its review of sentences. The division is also authorized to appoint a secretary.

History: En. 95-2501 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2501(part); amd. Sec. 1, Ch. 69, L. 2003.

46-18-902. Interested judge not to act. A judge may not sit or act on a review of a sentence that was imposed by the judge. In any case in which review of a sentence imposed by any of the judges serving on the review division is to be acted on by the division or if any member is unavailable to serve, the chief justice of the supreme court of Montana may designate another judge to act in place of the judge.

History: En. 95-2501 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2501(part); amd. Sec. 2, Ch. 69, L. 2003.

46-18-903. Application for review. (1) A person sentenced to a term of 1 year or more in the state prison or to the custody of the department of corrections by a court of competent jurisdiction may within 60 days from the date the sentence was imposed, except in a case in which a different sentence could not have been imposed, file with the clerk of the district court in the county in which judgment was rendered an application for review of the sentence by the review division. Upon imposition of the sentence, the clerk shall give written notice to the person sentenced and to the person's counsel of the right to make a request. The notice must include a statement that review of the sentence may result in a decrease or increase of the sentence within limits fixed by law.

(2) The clerk shall transmit the application to the review division and shall notify the judge who imposed the sentence, the county attorney of the county in which the sentence was imposed, and the person's counsel of record. The judge may transmit to the review division a statement of the judge's reasons for imposing the sentence and shall transmit the statement within 7 days if requested to do so by the review division.

(3) The review division may for cause shown consider any late request for review of sentence and may grant or deny the request.

(4) The filing of an application for review may not stay the execution of the sentence.

History: En. 95-2502 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2502; amd. Sec. 3, Ch. 69, L. 2003.

46-18-904. Procedure upon review. (1) In each case in which an application for review is filed in accordance with 46-18-903, the review division:

(a) (i) shall review the judgment as it relates to the sentence imposed and any other sentence imposed on the person at the same time; and

(ii) may order a different sentence or sentences to be imposed as could have been imposed at the time of the imposition of the sentence under review, including a decrease or increase in the penalty; or

(b) may decide that the sentence under review should stand.

(2) In reviewing a judgment, the division may require the production of presentence reports and any other records, documents, or exhibits relevant to the review proceedings. The person requesting the review may appear and has the right to be represented by counsel, and the state may be represented by the county attorney of the county in which the sentence was imposed. Any other interested person, including the sentencing judge, may attend and participate in the review proceedings.

(3) The sentence imposed by the district court is presumed correct. If the review division orders a different sentence, the court sitting in any convenient county shall resentence the person as ordered by the review division. Time served on the sentence reviewed is considered to have been served on the sentence substituted.

History: En. 95-2503 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2503(part); amd. Sec. 1, Ch. 654, L. 1985; amd. Sec. 4, Ch. 69, L. 2003.

46-18-905. Decision -- finality, report of. (1) The decision of the review division in each case is final, and the reasons for the decision must be stated in the decision. The original of each decision must be sent to the clerk of the court for the county in which the judgment was rendered, and a copy must be sent to the judge who imposed the sentence reviewed, the person sentenced, the defense counsel, the county attorney, and the principal officer of the institution in which the person is confined.

(2) The decision must be reported in the Montana Reports.

History: En. 95-2503 by Sec. 1, Ch. 196, L. 1967; R.C.M. 1947, 95-2503(part); amd. Sec. 5, Ch. 69, L. 2003.

Links:

- Sentence Review Division website: http://courts.mt.gov/supreme/boards/sentence_review
- Sentence Review Division rules (as of October 2013): http://courts.mt.gov/Portals/113/supreme/boards/sentence_review/docs/SRD.Rules.pdf
- Title 46, chapter 20, MCA. Appeals: http://leg.mt.gov/bills/mca_toc/46_20.htm

- Title 46, chapter 21, MCA. Postconviction Hearing:
http://leg.mt.gov/bills/mca_toc/46_21.htm

Workers' Compensation and Community Service

What are the regulations around workers' compensation insurance and mandated "community service" in lieu of booking/prosecution/sentencing?

The following memo was prepared by Legislative Research Analyst Pat Murdo in response to this question.

5-23-2016

Workers' Compensation in Montana's Corrections System

Prepared by Pat Murdo, Legislative Research Analyst

Workers' compensation is a way for employees to receive medical assistance and a part of their wages, if necessary, after an injury on the job or after discovering that they have developed a disease caused by their work or workplace. An employer provides workers' compensation coverage and in exchange the worker gives up the right to sue for what might be greater damages because of the employer's possible negligence at a worksite. This is the "exclusive remedy": in exchange for work comp coverage a worker gives up suing an employer -- unless harmed by an intentional, deliberate act (39-71-413, MCA) foreseen as certain to cause injury.

The following questions are germane to corrections and workers' compensation:

- What happens when the worker is under the control of the court system, either in a jail for misdemeanor offenses, in prison, in a prison-release program, or on probation or parole?
- Is workers' compensation coverage necessary and who pays for it?
- If a prisoner works in a work detail outside of a jail or prison, does that person have to be covered by workers' compensation?

Statutory requirements for court-determined cases:

Under the definition of employee in 39-71-118(1), MCA, the following court-system related cases are specifically recognized as an "employee" for purposes of workers' compensation coverage:

"(b) any juvenile who is performing work under authorization of a district court judge in a delinquency prevention or rehabilitation program; ...

(e) a person, other than a juvenile as described in subsection (1)(b), who is performing community service for a nonprofit organization or association or for a federal, state, or local government entity under a court order, or an order from a hearings officer as a result of a probation or parole violation, whether or not under appointment or contract of hire with an employer, as defined in 39-71-117, and whether or not receiving payment from a third party. For a person covered by the definition in this subsection (1)(e):

- (i) compensation benefits must be limited to medical expenses pursuant to 39-71-704 and an impairment award pursuant to 39-71-703 that is based upon the minimum wage established under Title 39, chapter 3, part 4, for a full-time employee at the time of the injury; and
- (ii) premiums must be paid by the employer, as defined in 39-71-117(3), and must be based upon the minimum wage established under Title 39, chapter 3, part 4, for the number of hours of community service required under the order from the court or hearings officer.

(f) an inmate working in a federally certified prison industries program authorized under 53-30-132;¹ *NOTE: The cross-referenced statute under subsection 53-30-132(7) notes that inmates not working in a federally certified prison industries program are not employees, either public or private, and employment rights accorded other classes of workers do not apply to the inmates.*

¹53-30-132, MCA, reads: Inmate participation and status in prison work programs -- Montana correctional enterprises prison industries training program -- wages and benefits. (1) Able-bodied persons committed to a state prison as adult offenders may be required to perform work as provided for by the department of corrections, including work in the Montana correctional enterprises prison industries training program involving the manufacture of products or the rendering of services. In order to ensure the public safety, the department may secure inmates performing work.

(2) The Montana correctional enterprises prison industries training program may:

(a) obtain federal certification, as required by federal law, of specific prison industries programs in order to gain access to interstate markets for prison industries products;

(b) print catalogs describing goods manufactured or produced by prison industries and distribute the catalogs;

(c) fix the sale price for goods produced or manufactured by prison industries. Prices may be set according to market standards and prices for goods or services of comparable quality. The price of products must include the cost of all raw materials and labor used to manufacture or produce the product.

(d) require a correctional facility to purchase needed goods and services from the Montana correctional enterprises program.

(3) The Montana correctional enterprises program may:

(a) pay an inmate from receipts from the sale of products produced or manufactured or services rendered in a program in which the inmate is working;

(b) collect 15% of the gross wages paid to an inmate employed in a federally certified prison industries program to satisfy any unpaid court-ordered obligations, including restitution on previously discharged sentences for which restitution remains owing. If the inmate's court-ordered obligations have been fully paid or no restitution was ordered, the Montana correctional enterprises program shall collect 15% of the gross wages paid to an inmate for transfer quarterly to the crime victims compensation and assistance program in the department of justice for deposit in the account provided for in 53-9-113.

(c) collect charges for room and board from an inmate employed in a federally certified prison industries program. The Montana correctional enterprises program shall deposit inmates' room and board charges into its enterprise fund to help defray the cost of prison industries training programs.

(4) While engaged in on-the-job training and production, inmates not employed in a federally certified prison industries program may be paid a wage in accordance with subsection (5). Inmates employed in a federally certified prison industries program must be paid as provided in subsection (5)(b).

(5) (a) Except as provided in subsection (5)(b), the maximum rate of pay must be determined by the appropriation established for the program, and payment for the performance of work may be based on the following criteria:

(i) knowledge and skill;

(ii) attitude toward authority;

(iii) physical effort;

(iv) responsibility for equipment and materials; and

(v) regard for safety of others.

(b) Inmates employed in a federally certified prison industries program must be paid the federal minimum wage or be paid at a rate not less than the rate paid for similar work in the locality where the inmate performs the work as determined by the federal bureau of justice.

(6) Premiums for workers' compensation and occupational disease coverage for federally certified prison industries programs must be paid by the Montana correctional enterprises prison industries training program or by the department of corrections. If the department of corrections pays the premium, reimbursement for premium payments for workers' compensation and occupational disease coverage must be made to the department of corrections by the private company contracting with the federally certified prison industries program for services and products.

(7) Inmates not working in a federally certified prison industries program are not employees, either public or private, and employment rights accorded other classes of workers do not apply to the inmates. Inmates working in a federally certified prison industries program are entitled to coverage and benefits as provided in 39-71-744.

Prerelease and Diversionary Program Work Comp Benefits

Under 39-71-744, MCA, whose catchline says "benefits not due while claimant is incarcerated -- exceptions" subsection (1) says that a workers' compensation claimant incarcerated for a period exceeding 30 days for either a felony or a misdemeanor is not eligible for disability or rehabilitation workers' compensation benefits for a claim incurred prior to being incarcerated, but the workers' compensation insurer is required to continue to provide medical benefits relating to the work-related injury.

The exceptions under subsection (2) say that "a person who is employed while participating in a prerelease center program or a diversionary program is eligible for temporary total benefits as provided in 39-71-701 and medical benefits for a work-related injury received while participating in a prerelease center program or a diversionary program. Other disability or rehabilitation benefits are not payable while the worker is participating in a prerelease center. This subsection does not prohibit the reinstatement of other benefits upon release from incarceration, nor does it apply to an employee performing community service described in 39-71-118(1)(e). "

Is an unpaid prisoner exempt from workers' compensation coverage?

Under 39-71-118, MCA, volunteers are not considered employees, and do not have to be covered for workers' compensation coverage. An employer may make an election to cover volunteers, particularly if concerned about liability issues. Theoretically, a prison or jail that asks for volunteers to be in a prisoner work group to provide labor outside of a federally certified prison industries program would not have to provide workers' compensation coverage. Given that 53-30-132, MCA, says "able-bodied persons committed to a state prison as adult offenders may be required to perform work", there appears to be no reason to consider state prisoners to be volunteers. This statute provides that an inmate outside the prison industries program is not an employee and has no employment rights of other classes of workers.

Board of Pardons and Parole

What is the medical parole approval rate?

The following e-mail sent March 2, 2016, from the then-Executive Director of the Board of Pardons and Parole Timothy Allred provides information to answer this question.

“Senator Wolken/Director Batista:

Thank you for giving me the opportunity to explain the medical parole process. The offender will work with his case manager or IPPO and request a medical parole application. Once the medical parole application is completed the IPPO confirms that the medical parole application is completed and supplemental information, including a waiver to release medical information is attached. The application is sent to the medical director or health services bureau staff for consideration. If the application is denied the Board does not see the application.

46-23-2010 (4) the application must be reviewed and accepted by the department before the board may consider granting a medical parole.

If the application is accepted it is forwarded to the warden for approval. If the warden disapproves the application, it is considered a recommendation, and the application is still forwarded to the Board. Once the Board receives the application the offender will be scheduled for a medical parole hearing.

46-23-210(5) Upon receiving the application from the department, a hearing panel shall hold a hearing. If the offender is eligible for a nonmedical parole, the hearing panel will first consider the offender for a nonmedical parole.

The Board will first consider the offender for a nonmedical parole because if there health improves they could be revoked.

46-23-2010 (6) If either the board or department determines that the person's medical condition has improved to the extent that the person no longer requires extensive medical attention or is likely to pose a detriment to the person, victim, or community, a hearing panel may revoke the parole and return the person to the custody of the department.

If they are not eligible for a nonmedical parole the Board will consider their medical parole. If the offender is granted a medical parole it needs to be an approved plan that the medical discharge staff and the offender have developed.

46-23-2010 (6) The hearing panel shall require as a condition of medical parole that the person agree to placement in an environment approved by the department during the parole period, including but not limited to a hospital, nursing home, hospice facility, or prerelease center, to intensive supervision, to some other appropriate community corrections facility or program, or to a family home. The

hearing panel may require as a condition of parole that the person agree to periodic examinations and diagnoses at the person's expense. Reports of each examination and diagnosis must be submitted to the board and department by the examining physician.

Last month there was an offender that had a parole restriction and the IPPO sent a form to the sentencing judge for approval, and the sentencing judge denied the request. That application was not forwarded to the Board.

46-23-2010 (2) A person designated ineligible for parole under 46-18-202(2) must have approval of the sentencing judge before being eligible for medical parole. If the court does not respond within 30 days to a written request from the department, the person is considered to be approved by the court for medical parole. The provisions of this subsection do not apply to a person who is ineligible for medical parole under subsection (1)(a).

I became Executive Director on December 13, 2014, and have been tracking medical parole applications since that time. When considering a medical parole application the Board will consider the criteria found in 46-23-2010, MCA, and 20.25.307, ARM.

Since December 2014, the Board has received 11 medical parole applications.
1 offender passed away within a week of the Board receiving the application
4 offenders were granted a nonmedical parole
1 offender was granted a medical parole
4 offenders were denied medical parole (3 of the offenders that were denied medical were also denied by the warden in his recommendation). To the best of my memory a couple of the offender's health improved since the application was submitted.

Since 2012, the Board has granted 23 nonmedical paroles for medical reasons. A lot of these offenders did not turn in a medical parole application. The Board was able to consider them for a nonmedical parole due to medical reasons at their scheduled hearing.

I hope this helps. Please let me know if you have any further questions.

Timothy Allred
Executive Director
Board of Pardons and Parole"

Link:

- Section 46-23-210, MCA – Medical parole statute:
<http://leg.mt.gov/bills/mca/46/23/46-23-210.htm> (These criteria were also included in the December 2015 EAQ #1 document should you wish to have a printed copy of the statute.)

Probation and Parole Conditions

What are the standard conditions of probation and parole? What is the statutory authority for these conditions? Are there best practices related to assigning these conditions?

The Department of Corrections supervises probationers according to conditions assigned by a sentencing judge and supervises parolees according to conditions assigned by the Board of Pardons and Parole (BOPP).

The standard conditions of probation or parole are listed in two different sections of the Administrative Rules of Montana. The DOC lists conditions of probation or parole in ARM 20.7.1101. The BOPP adopts the conditions of supervision in ARM 20.25.702. Each rule lists the same 11 conditions, but because the BOPP rule includes additional subsections related to supervisory fees, special conditions, and conditions of medical parole, its text is copied below. A link to each separate rule can be found at the end of this answer, along with a Conditions of Probation and Parole form used by the Probation and Parole Bureau of the DOC.

20.25.702 CONDITIONS OF SUPERVISION

(1) When a hearing panel orders an offender paroled, the offender is subject to the following standard rules unless otherwise ordered by the panel:

(a) The offender must obtain prior approval from his/her supervising officer before taking up residence in any location. The offender shall not change his/her place of residence without first obtaining written permission from his/her supervising officer or the officer's designee. The offender must make the residence open and available to an officer for a home visit or for a search upon reasonable suspicion. The offender will not own dangerous or vicious animals and will not use any device that would hinder an officer from visiting or searching the residence.

(b) The offender must obtain permission from his/her supervising officer or the officer's designee before leaving his/her assigned district.

(c) The offender must seek and maintain employment or maintain a program approved by the Board of Pardons and Parole or the supervising officer. Unless otherwise directed by his/her supervising officer, the offender must inform his/her employer and any other person or entity, as determined by the supervising officer, of his/her status on probation, parole, or other community supervision.

(d) Unless otherwise directed, the offender must submit written monthly reports to his/her supervising officer on forms provided by the probation and parole bureau. The offender must personally contact his/her supervising officer or designee when directed by the officer.

(e) The offender is prohibited from using, owning, possessing, transferring, or controlling any firearm, ammunition (including black powder), weapon, or chemical agent such as oleoresin capsicum or pepper spray.

(f) The offender must obtain permission from his/her supervising officer before engaging in a business, purchasing real or personal property, or purchasing an automobile, or incurring a debt.

(g) Upon reasonable suspicion that the offender has violated the conditions of supervision, a probation and parole officer may search the person, vehicle, and residence of the offender, and the offender must submit to such search. A probation and parole officer may authorize a law enforcement agency to conduct a search, provided the probation and parole officer determines reasonable suspicion exists that the offender has violated the conditions of supervision.

(h) The offender must comply with all municipal, county, state, and federal laws and ordinances and shall conduct himself/herself as a good citizen. The offender is required, within 72 hours, to report any arrest or contact with law enforcement to his/her supervising officer or designee. The offender must be cooperative and truthful in all communications and dealings with any probation and parole officer and with any law enforcement agency.

(i) The offender is prohibited from using or possessing alcoholic beverages and all intoxicants or mind altering chemicals. The offender is required to submit to bodily fluid testing for intoxicants or mind altering chemicals on a random or routine basis and without reasonable suspicion.

(j) The offender is prohibited from gambling.

(k) The offender must pay all fines, fees, and restitution ordered by the sentencing court.

(2) A parolee shall pay a supervisory fee of at least \$10 a month for each month under supervision. A hearing panel may reduce or waive the fee or suspend the monthly payment if payment would cause the parolee significant financial hardship.

(3) A hearing panel may order additional special conditions. Additionally, a hearing panel shall consider Department of Corrections' requests for special conditions. Any special conditions imposed by the department must be approved by a hearing panel. Special conditions must not be unrealistic or vague and must be reasonably related to the offender's crime, public safety, or the circumstances and rehabilitation of the offender.

(4) All rules and conditions must be stated in writing and must be made a part of any agreement signed by the offender.

(5) Any conditions of medical parole ordered by a hearing panel are considered parole special conditions.

History: 46-23-218, MCA; IMP, 46-23-215, MCA; Eff. 12/31/72; AMD, 1978 MAR p. 1552, Eff. 12/1/78; AMD, 1993 MAR p. 297, Eff. 2/26/93; AMD, 1994 MAR p. 168, Eff. 1/28/94; AMD, 1999 MAR p. 290, Eff. 2/12/99; AMD, 2010 MAR p. 2816, Eff. 12/10/10; AMD, 2012 MAR p. 1619, Eff. 8/10/12.

The statutory authority of the BOPP to adopt rules related to parole conditions is in section 46-23-218, MCA. A second statutory reference related to the BOPP and conditions of parole is found in section 46-23-215, MCA.

The statutory authority of the DOC to adopt rules related to probation conditions is in section 46-23-1002, MCA. Section 46-23-1011, MCA, is an additional reference to the DOC and its probation supervision duties. A similar section, 46-23-1021, MCA, lists the DOC duties related to supervision of parolees.

The full text of all five sections are printed below.

46-23-215. Conditions of parole. (1) A prisoner while on parole remains in the legal custody of the department but is subject to the orders of the board.

(2) (a) When a hearing panel issues an order for parole, the order must recite the conditions of parole. If restitution was imposed as part of the sentence under 46-18-201, the order of parole must contain a condition to pay restitution to the victim. The prisoner may not be paroled until the prisoner provides a biological sample for purposes of Title 44, chapter 6, part 1, if the prisoner has not already done so under 44-6-103 and if the prisoner was convicted of, or was found under 41-5-1502 to have committed, a sexual offense or violent offense.

(b) The board may require the prisoner convicted of a sexual offense to refrain from direct or indirect contact with a victim of the crime or with an immediate family member of the victim. If a victim or an immediate family member requests that the prisoner not contact the victim or immediate family member, the board shall require the prisoner to refrain from contact with the victim or immediate family member. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf.

(c) An order for parole or any parole agreement signed by a prisoner may contain a clause waiving extradition.

(3) Whenever a hearing panel grants a parole to a prisoner on the condition that the prisoner obtain employment or secure suitable living arrangements or on any other condition that is difficult to fulfill while incarcerated, the hearing panel or the presiding officer of the board or a designee may grant the prisoner a furlough, not to exceed two consecutive 10-day periods, for purposes of fulfilling the condition. While on furlough, the prisoner is not on parole and is subject to official detention as defined in 45-7-306. The prisoner remains in the legal custody of the department and is subject to all other conditions ordered by the hearing panel or the presiding officer of the board or a designee.

(4) For the purposes of this section, "sexual offense" and "violent offense" have the meanings provided in 46-23-502.

History: En. Sec. 12, Ch. 153, L. 1955; Sec. 94-9832, R.C.M. 1947; redes. 95-3214 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 86, Ch. 120, L. 1974; amd. Sec. 3, Ch. 312, L. 1975; amd. Sec. 60, Ch. 184, L. 1977; amd. Sec. 3, Ch. 340, L. 1977; amd. Sec. 3, Ch. 580, L. 1977; R.C.M. 1947, 95-3214(4); amd. Sec. 1, Ch. 1, Sp. L. 1982; amd. Sec. 3, Ch. 392, L. 1987; amd. Sec. 24, Ch. 125, L. 1995; amd. Sec. 10, Ch. 189, L. 1997; amd. Sec. 6, Ch. 147, L. 1999; amd. Sec. 8, Ch. 491, L. 1999; amd. Sec. 7, Ch. 559, L. 2003; amd. Sec. 8, Ch. 102, L. 2011; amd. Sec. 2, Ch. 113, L. 2015.

46-23-218. Authority of board to adopt rules -- purpose for training. (1) The board may adopt any rules that it considers proper or necessary with respect to the eligibility of prisoners for parole, the conduct of parole and parole revocation hearings, videoconference hearings, telephone conference administrative reviews, progress reviews, clemency proceedings, the conditions to be imposed upon parolees, the training of board members regarding American Indian culture and problems, and other matters pertinent to service on the board.

(2) The legislature finds that American Indians incarcerated in state prisons constitute a disproportionate percentage of the total inmate population when

compared to the American Indian population percentage of the total state population. The training of board members regarding American Indian culture and problems is necessary in order for the board to deal appropriately with American Indian inmates appearing before the board.

History: En. Sec. 12, Ch. 153, L. 1955; Sec. 94-9832, R.C.M. 1947; redes. 95-3214 by Sec. 29, Ch. 513, L. 1973; amd. Sec. 86, Ch. 120, L. 1974; amd. Sec. 3, Ch. 312, L. 1975; amd. Sec. 60, Ch. 184, L. 1977; amd. Sec. 3, Ch. 340, L. 1977; amd. Sec. 3, Ch. 580, L. 1977; R.C.M. 1947, 95-3214(5); amd. Sec. 3, Ch. 450, L. 1999; amd. Sec. 9, Ch. 559, L. 2003; amd. Sec. 9, Ch. 102, L. 2011. [Underlining added to original text.]

46-23-1002. Powers of the department. The department may:

(1) appoint probation and parole officers and other employees necessary to administer this part;

(2) authorize probation and parole officers to carry firearms, including concealed firearms, when necessary. The department shall adopt rules establishing firearms training requirements and procedures for authorizing the carrying of firearms.

(3) adopt rules for the conduct of persons placed on parole or probation, except that the department may not make any rule conflicting with conditions of parole imposed by the board or conditions of probation imposed by a court.

History: En. 95-3302 by Sec. 8, Ch. 333, L. 1975; R.C.M. 1947, 95-3302; amd. Sec. 1, Ch. 639, L. 1989. [Underlining added to original text.]

46-23-1011. Supervision on probation. (1) The department shall supervise probationers during their probation period, including supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), in accord with the conditions set by a sentencing judge. If the sentencing judge did not set conditions of probation at the time of sentencing, the court shall, at the request of the department, hold a hearing and set conditions of probation. The probationer must be present at the hearing. The probationer has the right to counsel as provided in chapter 8 of this title.

(2) If the probationer is being supervised for a sexual offense as defined in 46-23-502, the conditions of probation may require the probationer to refrain from direct or indirect contact with the victim of the offense or an immediate family member of the victim. If the victim or an immediate family member of the victim requests to the department that the probationer not contact the victim or immediate family member, the department shall request a hearing with a sentencing judge and recommend that the judge add the condition of probation. If the victim is a minor, a parent or guardian of the victim may make the request on the victim's behalf.

(3) A copy of the conditions of probation must be signed by the probationer. The department may require a probationer to waive extradition for the probationer's return to Montana.

(4) The probation and parole officer shall regularly advise and consult with the probationer to encourage the probationer to improve the probationer's condition and conduct and shall inform the probationer of the restoration of rights on successful completion of the sentence.

(5) (a) The probation and parole officer may recommend and a judge may modify or add any condition of probation or suspension of sentence at any time.

(b) The probation and parole officer shall provide the county attorney in the sentencing jurisdiction with a report that identifies the conditions of probation and the reason why the officer believes that the judge should modify or add the conditions.

(c) The county attorney may file a petition requesting that the court modify or add conditions as requested by the probation and parole officer.

(d) The court may grant the petition if the probationer does not object. If the probationer objects to the petition, the court shall hold a hearing pursuant to the provisions of 46-18-203.

(e) Except as they apply to supervision after release from imprisonment imposed pursuant to 45-5-503(4), 45-5-507(5), 45-5-601(3), 45-5-602(3), 45-5-603(2)(b), or 45-5-625(4), the provisions of 46-18-203(7)(a)(ii) do not apply to this section.

(f) The probationer shall sign a copy of new or modified conditions of probation. The court may waive or modify a condition of restitution only as provided in 46-18-246.

(6) (a) On recommendation of the probation and parole officer, a judge may conditionally discharge a probationer from supervision before expiration of the probationer's sentence if:

(i) the judge determines that a conditional discharge from supervision:

(A) is in the best interests of the probationer and society; and

(B) will not present unreasonable risk of danger to the victim of the offense; and

(ii) the offender has paid all restitution and court-ordered financial obligations in full.

(b) Subsection (6)(a) does not prohibit a judge from revoking the order suspending execution or deferring imposition of sentence, as provided in 46-18-203, for a probationer who has been conditionally discharged from supervision.

(c) If the department certifies to the sentencing judge that the workload of a district probation and parole office has exceeded the optimum workload for the district over the preceding 60 days, the judge may not place an offender on probation under supervision by that district office unless the judge grants a conditional discharge to a probationer being supervised by that district office. The department may recommend probationers to the judge for conditional discharge. The judge may accept or reject the recommendations of the department. The department shall determine the optimum workload for each district probation and parole office.

History: En. 95-3304 by Sec. 10, Ch. 333, L. 1975; R.C.M. 1947, 95-3304; amd. Sec. 1, Ch. 195, L. 1989; amd. Sec. 5, Ch. 579, L. 1993; amd. Sec. 26, Ch. 125, L. 1995; amd. Sec. 13, Ch. 52, L. 1999; amd. Sec. 2, Ch. 505, L. 1999; amd. Sec. 4, Ch. 493, L. 2001; amd. Sec. 25, Ch. 483, L. 2007; amd. Sec. 16, Ch. 374, L. 2013; amd. Sec. 3, Ch. 113, L. 2015; amd. Sec. 26, Ch. 285, L. 2015. [Underlining added to original text.]

46-23-1021. Supervision on parole. (1) The department shall retain custody of all persons placed on parole and shall supervise the persons during their parole periods in accordance with the conditions set by the board.

(2) The department shall assign personnel to assist a person who is eligible for parole in preparing a parole plan. Department personnel shall make a report of their efforts and findings to the board prior to its consideration of the case of the eligible person.

(3) A copy of the conditions of parole must be signed by the parolee and given to the parolee and to the parolee's probation and parole officer, who shall report on the parolee's progress under the rules of the board.

(4) The probation and parole officer shall regularly advise and consult with the parolee, assist the parolee in adjusting to community life, and inform the parolee of the restoration of rights on successful completion of the sentence.

(5) The probation and parole officer shall keep records as the board or department may require. All records must be entered in the master file of the individual.

(6) (a) Upon recommendation of the probation and parole officer, the board may conditionally discharge a parolee from supervision before expiration of the parolee's sentence if the board determines that a conditional discharge from supervision is in the best interests of the parolee and society and will not present unreasonable risk of danger to the victim of the offense.

(b) Any of the achievements listed in 46-23-1027(2) must be considered a significant achievement by the board in deciding whether to grant a conditional discharge from supervision to a parolee.

(c) If the board discharges a parolee from supervision, the department is relieved of the obligation of supervising the parolee.

(d) For good cause, the board may return a parolee who was conditionally discharged to the status of a regular parolee.

(e) Subsection (6)(a) does not prohibit the board from revoking the parole, as provided in 46-23-1025, of a parolee who has been conditionally discharged from supervision.

(f) If the department certifies to the board that the workload of a district probation and parole office has exceeded the optimum workload for the district over the preceding 60 days, the board may not parole a prisoner to that district office unless it grants a conditional discharge to a parolee being supervised by that district office. The department may recommend parolees to the board for conditional discharge. The board may accept or reject the recommendations of the department. The department shall determine the optimum workload for each district probation and parole office.

History: En. 95-3306 by Sec. 11, Ch. 333, L. 1975; amd. Sec. 62, Ch. 184, L. 1977; R.C.M. 1947, 95-3306; amd. Sec. 2, Ch. 195, L. 1989; amd. Sec. 6, Ch. 579, L. 1993; amd. Sec. 27, Ch. 125, L. 1995; amd. Sec. 2, Ch. 238, L. 2007. [Underlining added to original text.]

Best practices related to assigning conditions of supervision are typically covered in best practices for supervising offenders in the community, which have been covered by the commission in previous meetings. But specifically, the Urban Institute does point to research related to tailoring conditions of supervision, including that conditions should be realistic, relevant, and research-based. That research report is linked below.

Links:

- ARM 20.7.1101:
<http://www.mtrules.org/gateway/RuleNo.asp?RN=20%2E7%2E1101>

- ARM 20.25.702:
<http://www.mtrules.org/gateway/RuleNo.asp?RN=20%2E25%2E702>
- Putting Public Safety First: 13 Parole Supervision Strategies to Enhance Reentry Outcomes, The Urban Institute Justice Policy Center:
<http://www.urban.org/sites/default/files/alfresco/publication-pdfs/411791-Putting-Public-Safety-First--Parole-Supervision-Strategies-to-Enhance-Reentry-Outcomes-Paper-.PDF> pgs 10-12



STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
PROBATION AND PAROLE BUREAU

CONDITIONS OF PROBATION AND PAROLE

Offender's Initials

Your probation/parole is granted subject to the following conditions, limitations, and restrictions.

- 1. RESIDENCE: My residence must be approved by a Probation/Parole Officer. I will not change my place of residence without first obtaining written permission from a Probation/Parole Officer.
2. TRAVEL: I will not leave my assigned district without first obtaining written permission from a Probation/Parole Officer. My assigned district is:
3. EMPLOYMENT AND/OR PROGRAM: I will seek and maintain employment or a program approved by the BOPP or a Probation/Parole Officer.
4. REPORTING: I will personally report to a Probation/Parole Officer as directed. I will submit written monthly reports on forms provided.
5. WEAPONS: I will not use, own, possess, transfer, or be in control of any firearms, ammunition (including black powder), or weapons.
6. FINANCIAL: I will obtain permission from a Probation/Parole Officer before financing or purchasing an automobile, real property, or engaging in business.
7. SEARCH OF PERSON OR PROPERTY: Upon reasonable suspicion, as ascertained by a Probation/Parole Officer, my person, vehicle, and/or residence may be searched at any time, day or night.
8. LAWS & CONDUCT: I shall comply with all city, county, state, and federal laws and ordinances, and conduct myself as a good citizen.
9. ILLEGAL DRUG USE: I will not possess or use illegal drugs. I will not be in control of or under the influence of illegal drugs.
10. NO ALCOHOL: I will not possess or consume intoxicants/alcohol. I will submit to breathalyzer testing or bodily fluid testing as requested by a Probation/Parole Officer.
11. DRUG TESTING: I will submit to alcohol and/or drug testing on a random or regular basis as required by a Probation/Parole Officer.
12. NO GAMBLING: I will not gamble.
13. SUPERVISION FEES: I will pay supervision fees pursuant to §46-23-1031, MCA. If convicted of a drug offense and placed on ISP in lieu of imprisonment, I may be ordered to pay not less than \$50 per month pursuant to §45-9-202(2)(d)(ii), MCA.
14. VICTIM RESTITUTION: I will pay court ordered restitution to the victim in the amount of \$ in monthly payments of \$ Payments to be made as determined by the court and/or a Probation/Parole Officer.
15. FINES/FEES: I will pay all fines and fees as ordered by the court in the amount of \$ in monthly payments of \$.

The following STATUTORY REQUIREMENTS apply:

- 16. REGISTRATION/NOTIFICATION[16]: I am required by §46-23-504, MCA, to register and give appropriate notice of address changes.
SEXUAL OFFENDER: Depending on my Level of Risk Designation, there will be appropriate address notification to the community.
VIOLENT OFFENDER
17. DNA TESTING: I am required by §44-6-103, MCA, to submit to DNA testing.

The following SPECIAL CONDITIONS ordered by the Board of Pardons & Parole or the Sentencing Court apply:

- 18. COUNSELING/TREATMENT/PROGRAMMING: I will enter, participate on a regular basis and complete:
Chemical Dependency Counseling Sexual Offender Counseling Mental Health Counseling
Other Programming as ordered by the Court/BOPP and determined appropriate by a Probation/Parole Officer
19. NO BARS: I will not enter any place intoxicants are the chief item of sale.
20. NO CASINOS: I will not enter any casinos.
21. ASSOCIATION: I will not associate with probationers, parolees, prison inmates, or persons in the custody of any law enforcement agency without prior approval from a Probation/Parole Officer. I will not associate with persons as ordered by the court or BOPP.
ADDITIONAL CONDITIONS (See attached)

AGREEMENT AND NOTIFICATION OF JAIL SANCTIONS

I have read, or had read to me the foregoing rules and conditions and I will abide by them. Failure to do so may result in revocation. I further understand that failure to do so may result in immediate jail sanctions of up to 30 days at my own expense or revocation of my probation or parole pursuant to §46-23-1015(3), MCA.

WAIVER OF EXTRADITION

I do hereby waive extradition to the State of Montana from any state in the union, and from any territory or country outside the continental United States, and also agree that I will not contest any effort to return me to the United States or to the State of Montana. I understand that this probation/parole is granted to and accepted by me, subject to the conditions, limitations, and restrictions stated herein, and with the knowledge that the Board of Pardons and Parole, Sentencing Court, or the Department of Corrections has the power, at any time, in case of violation of the conditions, limitations, and restrictions of probation or parole to cause my detention and/or return to prison.

PROBATION/PAROLE OFFICER (Type/Print Officer Name)

PROBATIONER/PAROLEE (Type/Print Offender Name)

DATE

DOC IDENTIFICATION NUMBER



STATE OF MONTANA
DEPARTMENT OF CORRECTIONS
COMMUNITY CORRECTIONS DIVISION
ADULT PROBATION AND PAROLE

CONDITIONS OF PROBATION AND PAROLE
SUPPLEMENTAL FORM

Offender's
Initials

22.

23.

24.

25.

26.

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28.

29.

30.

31.

PROBATION/PAROLE OFFICER

(Type/Print Officer Name)

PROBATIONER/PAROLEE

(Type/Print Offender Name)

DATE

DOC IDENTIFICATION NUMBER

Behavioral Health (includes telemedicine)

What are the regulations about telemedicine in Montana?

The following answer was provided to a legislator in February 2016 by Legislative Research Analyst Sue O'Connell in response to a similar question. The e-mail text and the attachments are included below.

"I contacted the Board of Medical Examiners about obtaining a list of physicians who have telemedicine licenses and learned that they recently converted all telemedicine licenses to regular physician licenses because of changes made in the law last year. So there is no list of doctors with telemedicine licenses.

Senate Bill 77 defined telemedicine, made it a part of "the practice of medicine," and repealed several statutes that had previously governed telemedicine, including a requirement for a telemedicine license. Those changes went into effect on July 1, 2015, and the Board stopped issuing telemedicine licenses at that time.

SB 77 also said the Board could adopt rules related to telemedicine, and a work group will begin drafting those rules later this month. If you'd like, I can let you know when the proposed rules are published. Until then, the current telemedicine rules are in effect. Those rules are available online at this link:

<http://www.mtrules.org/gateway/Subchapterhome.asp?scn=24.156.8>

I'm attaching a copy of SB 77, with the portions relevant to telemedicine highlighted. I'm also attached a copy of the telemedicine laws that were repealed by SB 77. If you'd like, I can send you hard copies of both of these documents.

FYI, there are also statutes that specifically allow the practice of telepharmacy (37-7-101 and 37-7-201) and allow telepractice of speech-language pathology (37-15-102, 37-15-202, 37-15-314, and 37-15-315).

Hope this answers your questions. Please let me know if you need anything else."



AN ACT REVISING LICENSURE AND OTHER REGULATIONS BY THE BOARD OF MEDICAL EXAMINERS FOR PHYSICIANS AND PHYSICIAN ASSISTANTS; CREATING A RESIDENT PHYSICIAN LICENSE; REPEALING SPECIALIZED, TELEMEDICINE, AND TEMPORARY PHYSICIAN LICENSES; PROVIDING THE BOARD WITH RULEMAKING AUTHORITY FOR TELEMEDICINE GUIDELINES AND SHORT-TERM LICENSES; REVISING AND UPDATING ACCREDITATION ENTITIES; AMENDING SECTIONS 27-6-103, 37-3-102, 37-3-103, 37-3-201, 37-3-203, 37-3-204, 37-3-211, 37-3-301, 37-3-303, 37-3-305, 37-3-307, 37-3-308, 37-3-312, 37-3-321, 37-3-323, 37-3-403, AND 37-20-402, MCA; REPEALING SECTIONS 37-3-304, 37-3-306, 37-3-311, 37-3-315, 37-3-327, 37-3-328, 37-3-341, 37-3-342, 37-3-343, 37-3-344, 37-3-345, 37-3-347, 37-3-348, 37-3-349, AND 37-6-304, MCA; AND PROVIDING AN EFFECTIVE DATE.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 27-6-103, MCA, is amended to read:

"27-6-103. Definitions. As used in this chapter, the following definitions apply:

(1) "Dentist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the assessment:

(i) has as the individual's principal residence or place of dental practice the state of Montana;

(ii) is not employed full-time by any federal governmental agency or entity; and

(iii) is not fully retired from the practice of dentistry; or

(b) for all other purposes, a person licensed to practice dentistry under the provisions of Title 37, chapter 4, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as the principal residence or place of dental practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render dental services and whose shareholders, partners, or owners were individual dentists

licensed to practice dentistry under the provisions of Title 37, chapter 4.

(2) (a) "Health care facility" means a facility licensed as a health care facility under Title 50, chapter 5.

(b) For the purposes of this chapter, a health care facility does not include:

- (i) an end-stage renal dialysis facility;
- (ii) a home infusion therapy agency;
- (iii) a residential care facility; or
- (iv) a governmental infirmary, except a university or college infirmary.

(3) "Health care provider" means a physician, a dentist, a podiatrist, or a health care facility.

(4) "Hospital" means a hospital as defined in 50-5-101.

(5) "Malpractice claim" means a claim or potential claim of a claimant against a health care provider for medical or dental treatment, lack of medical or dental treatment, or other alleged departure from accepted standards of health care that proximately results in damage to the claimant, whether the claimant's claim or potential claim sounds in tort or contract, and includes but is not limited to allegations of battery or wrongful death.

(6) "Panel" means the Montana medical legal panel provided for in 27-6-104.

(7) "Physician" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the assessment:

~~(i) has as the individual's principal residence or place of medical practice the state of Montana or practices telemedicine as defined in 37-3-342;~~

~~(i) has as the individual's principal residence or place of medical practice the state of Montana or practices telemedicine as defined in 37-3-102;~~

~~(ii)~~(ii) is not employed full-time by any federal governmental agency or entity; and

~~(iii)~~(iii) is not fully retired from the practice of medicine; or

(b) for all other purposes, a person licensed to practice medicine under the provisions of Title 37, chapter 3, who at the time of the occurrence of the incident giving rise to the claim:

(i) ~~was an individual who had as the principal residence or place of medical practice the state of Montana or practiced telemedicine as defined in 37-3-342 and~~ had as the principal residence or place of medical practice the state of Montana or ~~practiced telemedicine as defined in 37-3-102~~ and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render medical services and whose shareholders, partners, or owners were individual physicians licensed to practice medicine under the provisions of Title 37, chapter 3.

(8) "Podiatrist" means:

(a) for purposes of the assessment of the annual surcharge, an individual licensed to practice podiatry under the provisions of Title 37, chapter 6, who at the time of the assessment:

- (i) has as the individual's principal residence or place of podiatric practice the state of Montana;
- (ii) is not employed full-time by any federal governmental agency or entity; and
- (iii) is not fully retired from the practice of podiatry; or

(b) for all other purposes, a person licensed to practice podiatry under the provisions of Title 37, chapter 6, who at the time of the occurrence of the incident giving rise to the claim:

(i) was an individual who had as the principal residence or place of podiatric practice the state of Montana and was not employed full-time by any federal governmental agency or entity; or

(ii) was a professional service corporation, partnership, or other business entity organized under the laws of any state to render podiatric services and whose shareholders, partners, or owners were individual podiatrists licensed to practice podiatry under the provisions of Title 37, chapter 6."

Section 2. Section 37-3-102, MCA, is amended to read:

"37-3-102. Definitions. Unless the context requires otherwise, in this chapter, the following definitions apply:

(1) "ACGME" means the accreditation council for graduate medical education.

(2) "AOA" means the American osteopathic association.

~~(1)~~(3) "Approved internship" means an internship training program of at least 1 year in a hospital program that is either is approved for intern training by the ~~American osteopathic association~~ AOA or conforms to the minimum standards for intern training established by the ~~council on medical education of the American medical association~~ ACGME or successors. However, the board may, upon investigation, approve any other internship.

~~(2)~~(4) "Approved medical school" means a school that either is accredited by the ~~American osteopathic association~~ AOA or conforms to the minimum education standards established by the ~~council on medical education of the American medical association~~ LCME or the world health organization or successors for medical

schools that meet standards established by the board by rule or is equivalent in the sound discretion of the board.
 The board may, on investigation of the education standards and facilities, approve any medical school, including foreign medical schools.

~~(3)~~(5) "Approved residency" means a residency training program in a hospital conforming to the minimum standards for residency training established by the council on medical education of the American medical association ACGME or successors or approved for residency training by the American osteopathic association AOA.

~~(4)~~(6) "Board" means the Montana state board of medical examiners provided for in 2-15-1731.

~~(5)~~(7) "Department" means the department of labor and industry provided for in Title 2, chapter 15, part 17.

(8) "ECP" means an emergency care provider licensed by the board, including but not limited to an emergency medical responder, an emergency medical technician, an advanced emergency medical technician, or a paramedic.

(9) "LCME" means the liaison committee on medical education.

~~(6)~~(10) "Medical assistant" means an unlicensed allied health care worker who functions under the supervision of a physician or podiatrist in a physician's or podiatrist's office and who performs administrative and clinical tasks.

~~(7)~~(11) "Physician" means a person who holds a degree as a doctor of medicine or doctor of osteopathy and who has a valid license to practice medicine or osteopathic medicine in this state.

~~(8)~~(12) "**Practice of medicine**" means the diagnosis, treatment, or correction of or the attempt to or the holding of oneself out as being able to diagnose, treat, or correct human conditions, ailments, diseases, injuries, or infirmities, whether physical or mental, by any means, methods, devices, or instrumentalities, **including electronic and technological means such as telemedicine.** If a person who does not possess a license to practice medicine in this state under this chapter and who is not exempt from the licensing requirements of this chapter performs acts constituting the practice of medicine, the person is practicing medicine in violation of this chapter.

(13) (a) "Telemedicine" means the practice of medicine using interactive electronic communications, information technology, or other means between a licensee in one location and a patient in another location with or without an intervening health care provider. Telemedicine typically involves the application of secure videoconferencing or store-and-forward technology, as defined in 33-22-138.

(b) The term does not mean an audio-only telephone conversation, an e-mail or instant messaging conversation, or a message sent by facsimile transmission."

Section 3. Section 37-3-103, MCA, is amended to read:

"37-3-103. Exemptions from licensing requirements. (1) This chapter does not prohibit or require a license with respect to any of the following acts:

- (a) the gratuitous rendering of services in cases of emergency or catastrophe;
- (b) the rendering of services in this state by a physician lawfully practicing medicine in another state or territory. However, if the physician does not limit the services to an occasional case or if the physician has any established or regularly used hospital connections in this state or maintains or is provided with, for the physician's regular use, an office or other place for rendering the services, the physician must possess a license to practice medicine in this state.
- (c) the practice of dentistry under the conditions and limitations defined by the laws of this state;
- (d) the practice of podiatry under the conditions and limitations defined by the laws of this state;
- (e) the practice of optometry under the conditions and limitations defined by the laws of this state;
- (f) the practice of chiropractic under the conditions and limitations defined by the laws of this state;
- (g) the practice of Christian Science, with or without compensation, and ritual circumcisions by rabbis;
- (h) the practice of medicine by a physician licensed in another state and employed by the federal government;
- (i) the rendering of nursing services by registered or other nurses in the lawful discharge of their duties as nurses or of midwife services by registered nurse-midwives under the conditions and limitations defined by law;
- (j) the rendering of services by interns or resident physicians in a hospital or clinic in which they are training, subject to the conditions and limitations of this chapter. ~~The board may require a resident physician to be licensed if the physician otherwise engages in the practice of medicine in the state of Montana.~~
- (k) the rendering of services by a physical therapist, surgical or medical technician, or medical assistant, as provided in 37-3-104, ~~or other paramedical specialist~~ under the appropriate amount and type of supervision of a person licensed under the laws of this state to practice medicine, but this exemption does not extend the scope of ~~a paramedical specialist~~ the individuals listed in this subsection (1)(k);

- (l) the rendering of services by a physician assistant in accordance with Title 37, chapter 20;
- (m) the practice by persons licensed under the laws of this state to practice a limited field of the healing arts, ~~and including physical therapists and other licensees~~ not specifically designated, under the conditions and limitations defined by law;
- (n) the execution of a death sentence pursuant to 46-19-103;
- (o) the practice of direct-entry midwifery. For the purpose of this section, the practice of direct-entry midwifery means the advising, attending, or assisting of a woman during pregnancy, labor, natural childbirth, or the postpartum period. Except as authorized in 37-27-302, a direct-entry midwife may not dispense or administer a prescription drug, as those terms are defined in 37-7-101.
- (p) the use of an automated external defibrillator pursuant to Title 50, chapter 6, part 5.

(2) Licensees referred to in subsection (1) who are licensed to practice a limited field of healing arts shall confine themselves to the field for which they are licensed or registered and to the scope of their respective licenses and, with the exception of those licensees who hold a medical degree, may not use the title "M.D.", "D.O.", or any word or abbreviation to indicate or to induce others to believe that they are engaged in the diagnosis or treatment of persons afflicted with disease, injury, or defect of body or mind except to the extent and under the conditions expressly provided by the law under which they are licensed."

Section 4. Section 37-3-201, MCA, is amended to read:

"37-3-201. Organization. (1) (a) The board shall, ~~at the first meeting each year,~~ elect from among its members a president, vice-president, and secretary.

(b) The board shall adopt a seal on which appear the words "The Board of Medical Examiners of Montana" and "Official Seal". ~~The board shall authenticate acts, rules, orders, and licenses by applying the seal.~~

(2) The board shall establish a screening panel for disciplinary matters as provided for in 37-1-307 ~~and shall authorize the screening panel to oversee any rehabilitation program established pursuant to 37-3-203."~~

Section 5. Section 37-3-203, MCA, is amended to read:

"37-3-203. Powers and duties. (1) The board may:

(a) adopt rules necessary or proper to carry out the requirements in Title 37, chapter 3, parts 1 through 3 of this chapter 4, as well as chapters covering podiatry, acupuncture, physician assistants, nutritionists, and

emergency care providers as set forth in Title 37, chapters 6, 13, 20, and 25, and 50-6-203, respectively. The rules must be fair, impartial, and nondiscriminatory.

(b) hold hearings and take evidence in matters relating to the exercise and performance of the powers and duties vested in the board;

(c) aid the county attorneys of this state in the enforcement of parts 1 through ~~3~~ 4 and 8 of this chapter as well as Title 37, chapters 6, 13, 20, and 25, and Title 50, chapter 6, regarding emergency care providers licensed by the board. The board also may assist the county attorneys of this state in ~~and~~ the prosecution of persons, firms, associations, or corporations charged with violations of ~~parts 1 through 3 of this chapter; the provisions listed in this subsection (1)(c).~~

(d) review certifications of disability and determinations of eligibility for a permit to hunt from a vehicle as provided in 87-2-803(11); and

(e) fund additional staff, hired by the department, to administer the provisions of this chapter, by increasing license fees as necessary.

(2) (a) The board shall establish a medical assistance program to assist and rehabilitate licensees who are subject to the jurisdiction of the board and who are found to be physically or mentally impaired by habitual intemperance or the excessive use of addictive drugs, alcohol, or any other drug or substance or by mental illness or chronic physical illness.

(b) The board shall ensure that a licensee who is required or volunteers to participate in the medical assistance program as a condition of continued licensure or reinstatement of licensure must be allowed to enroll in a qualified medical assistance program within this state and may not require a licensee to enroll in a qualified treatment program outside the state unless the board finds that there is no qualified treatment program in this state.

(3) (a) The board shall report annually on the number and types of complaints it has received involving physician practices in providing written certification, as defined in 50-46-302, for the use of marijuana for a debilitating medical condition provided for in Title 50, chapter 46. The report must contain:

(i) the number of complaints received by the board pursuant to 37-1-308;

(ii) the number of complaints for which a reasonable cause determination was made pursuant to 37-1-307;

(iii) the general nature of the complaints;

(iv) the number of investigations conducted into physician practices in providing written certification; and
 (v) the number of physicians disciplined by the board for their practices in providing written certification for the use of marijuana for a debilitating medical condition.

(b) Except as provided in subsection (3)(c), the report may not contain individual identifying information regarding the physicians about whom the board received complaints.

(c) For each physician against whom the board takes disciplinary action related to the physician's practices in providing written certification for the use of marijuana for a debilitating medical condition, the report must include:

- (i) the name of the physician;
- (ii) the general results of the investigation of the physician's practices; and
- (iii) the disciplinary action taken against the physician.

(d) The board shall provide the report to the children, families, health, and human services interim committee by August 1 of each year and shall make a copy of the report available on the board's website.

(4) The board may enter into agreements with other states for the purposes of mutual recognition of licensing standards and licensing of physicians and ECPs from other states under the terms of a mutual recognition agreement."

Section 6. Section 37-3-204, MCA, is amended to read:

"37-3-204. Meetings. The board shall hold meetings for ~~examinations and for other~~ business properly before the board at least twice annually at times and places set by the board. The president of the board may call special meetings that the president considers advisable or necessary."

Section 7. Section 37-3-211, MCA, is amended to read:

"37-3-211. Executive secretary officer. To perform services to the board in connection with the board's duties under this chapter, assist in prosecution and matters of license discipline, and administer the board's affairs, the department shall hire an executive ~~secretary~~ officer."

Section 8. Section 37-3-301, MCA, is amended to read:

"37-3-301. License required -- kinds of licenses. (1) Before being issued a license, an applicant may

not engage in the practice of medicine in this state.

(2) The department may issue ~~four~~ two kinds of licenses under the board's seal, which include a physician's license, a specialized license, a temporary license, and a telemedicine license issued in accordance with 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and a resident license. The physician's license and the specialized license must be signed by the president, but the temporary license may be signed by any board member. The board shall decide which kind of license to issue.

(3) The board shall provide guidelines by administrative rule for the practice of telemedicine by physicians.

(4) A license issued by the board that has not expired prior to [the effective date of this act] remains valid until renewal unless the licensee is otherwise subject to disciplinary proceedings."

Section 9. Section 37-3-303, MCA, is amended to read:

"37-3-303. Practice authorized by physician's license. A physician's license authorizes the holder to perform one or more of the acts embraced in ~~37-3-102(8)~~ 37-3-102(12) in a manner reasonably consistent with the holder's training, skill, and experience."

Section 10. Section 37-3-305, MCA, is amended to read:

"37-3-305. Qualifications for licensure. (1) Except as provided in ~~subsections (4) and (5), a person may not be granted~~ subsection (2), the board shall grant a physician's license to practice medicine in this state ~~unless the person~~ to an applicant who:

- (a) is of good moral character as determined by the board;
- (b) is a graduate of an approved medical school as defined in 37-3-102;
- (c) has ~~successfully~~ completed an approved residency program ~~of at least 2 years~~ or, for an applicant who graduated from medical school prior to 2000, has had experience or training that ~~in the opinion of the board has determined~~ is at least the equivalent of a 2-year an approved residency program;
- (d) has passed all of the steps of the United States medical licensing examination, the federation of state medical boards' federation licensing examination, or an examination offered by any of the following entities:

- (i) the national board of medical examiners or its successors;
- (ii) the national board of osteopathic medical examiners or its successors;

(iii) the medical council of Canada or its successors if the applicant is a graduate of a Canadian medical school approved by the medical council of Canada or its successor; or

(iv) the educational commission for foreign medical graduates or its successors if the applicant is a graduate of a foreign medical school outside of the United States and Canada;

~~(d)~~(e) has submitted a completed application with the required nonrefundable fee; and

~~(e)~~(f) is able to communicate, ~~in the opinion of the board,~~ in the English language as determined by the board.

(2) The board may authorize the department to issue the license subject to terms of probation or other conditions or limitations set by the board or may refuse a license if the applicant has committed unprofessional conduct or is otherwise unqualified;

(3) The board may by rule impose additional requirements for licensure to protect the health and safety of the public or to enter into a mutual recognition licensing agreement with another state.

(4) The board may adopt rules that provide conditions for short-term nondisciplinary licenses.

~~(3) A person may not be granted a temporary license to practice medicine in this state unless the person:~~

~~—— (a) is of good moral character as determined by the board;~~

~~—— (b) is a graduate of an approved medical school as defined in 37-3-102;~~

~~—— (c) has successfully completed an approved residency program of at least 2 years or, for an applicant who graduated from medical school prior to 2000, has had experience or training that in the opinion of the board is at least the equivalent of a 2-year approved residency program; and~~

~~—— (d) is able, in the opinion of the board, to communicate in the English language.~~

~~—— (4) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:~~

~~—— (a) has completed an approved internship of at least 1 year or in the opinion of the board has had experience or training that is at least the equivalent of a 1-year internship;~~

~~—— (b) is a resident in good standing with the Montana family practice residency program; and~~

~~—— (c) is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state.~~

~~—— (5) The 2-year minimum requirements in subsections (1)(c) and (3)(c) do not apply to a person who:~~

~~—— (a) has completed an approved internship of at least 1 year or, in the opinion of the board, has had experience or training that is at least the equivalent of a 1-year internship;~~

- ~~———— (b) is a resident in good standing with a program accredited by the accreditation council for graduate medical education or the American osteopathic association;~~
- ~~———— (c) in the course of an approved rotation of the person's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state;~~
- ~~———— (d) makes application to the department on an approved form; and~~
- ~~———— (e) pays a fee set by the board, as provided in 37-3-308."~~

Section 11. Section 37-3-307, MCA, is amended to read:

"37-3-307. Qualifications for licensure -- temporary resident license. (1) The board may authorize the department to issue ~~to an applicant~~ a temporary resident license to practice medicine ~~on the basis of~~ to an applicant who:

- ~~———— (a) passing an examination prescribed by the board;~~
- ~~———— (b) certification of record or other certificate of examination issued to or for the applicant by the national board of medical examiners or successors, by the federation licensing examination committee or successors, by the national board of osteopathic medical examiners or successors, or by the medical council of Canada or successors if the applicant is a graduate of a Canadian medical school that has been approved by the medical council of Canada or successors, certifying that the applicant has passed an examination given by the board; or~~
- ~~———— (c) a valid, unsuspended, and unrevoked license or certificate issued to the applicant on the basis of an examination by an examining board under the laws of another state or territory of the United States or of the District of Columbia or of a foreign country whose licensing standards at the time the license or certificate was issued were essentially equivalent, in the judgment of the board, to those of this state at the time for granting a license to practice medicine; and~~
- ~~———— (d) being a graduate of an approved medical school who has completed 1 year of internship or the equivalent and being of good moral character and good conduct.~~
- ~~———— (2) The board may require that graduates of foreign medical schools pass the examination given by the education council for foreign medical graduates or successors.~~
- ~~———— (3) A temporary license may be issued to a physician employed by a public institution who is practicing under the direction of a licensed physician. The board may authorize the department to issue a temporary license subject to terms of probation or other conditions or limitations set by the board or may refuse a temporary license~~

~~to a person who has committed unprofessional conduct. The issuance of a temporary license does not impose any future obligation or duty on the part of the board to grant full licensure or to renew or extend the temporary license. The board may, in the case of an applicant for a temporary license, require a written, oral, or practical examination of the applicant.~~

(a) is in good standing:

(i) in a Montana residency program and is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state; or

(ii) with an approved residency and who, in the course of an approved rotation of the applicant's residency program, is seeing patients under the supervision of a physician who possesses a current, unrestricted license to practice medicine in this state; and

(b) submits an application to the department on an approved form and submits the fee set by the board, as provided in 37-3-308.

(2) A resident license may not be issued for a period that exceeds 1 year. A resident license may be renewed, at the board's discretion, for additional 1-year periods as long as the resident is in good standing in an approved residency program."

Section 12. Section 37-3-308, MCA, is amended to read:

"37-3-308. Application fee -- further tax forbidden. (1) ~~An Each applicant for a license to practice medicine to be issued on the basis of an examination by the board shall pay an examination fee as set by the board. The board shall set the fee, and it shall be reasonable and commensurate with the costs of the examination and related costs. Such examination fee shall be in addition to the application fee. All applicants, including applicants for a temporary license, shall pay an initial application fee as prescribed by the board.~~

(2) A license tax may not be imposed upon physicians by a municipality or any other subdivision of the state."

Section 13. Section 37-3-312, MCA, is amended to read:

"37-3-312. Issuance of license. If the board determines that an applicant possesses the qualifications required by this chapter, the department shall issue a license to practice medicine, ~~which shall be signed by the president or vice-president, attested by the secretary, and sealed with the seal of the board."~~

Section 14. Section 37-3-321, MCA, is amended to read:

"37-3-321. Refusal of license. If the board determines that an applicant for a license to practice medicine does not possess the qualifications or character required by this chapter or that the applicant has committed unprofessional conduct, ~~it shall refrain from authorizing the department to issue a~~ the board may deny the license. ~~The department shall mail to the applicant, at the applicant's last address of record with the department, written notification of the board's decision, together with notice of a time and place of a hearing before the board. If the applicant without cause fails to appear at the hearing or if after the hearing the board determines that the applicant is not entitled to a license, the board shall refuse to grant the license."~~

Section 15. Section 37-3-323, MCA, is amended to read:

"37-3-323. Suspension of license -- investigation. (1) The department may investigate whenever the department learns of a reason to suspect that a license applicant or a person having a license to practice medicine in this state:

(a) is mentally or physically unable to safely engage in the practice of medicine, has procured a license to practice medicine by fraud or misrepresentation or through mistake, has been declared incompetent by a court of competent jurisdiction and has not later been lawfully declared competent, or has a condition that impairs the person's intellect or judgment to the extent that the condition incapacitates the person for the safe performance of professional duties;

(b) ~~has been guilty of~~ has engaged in unprofessional conduct;

(c) has practiced medicine with a suspended or revoked license;

(d) has had a license to practice medicine suspended or revoked by any licensing authority for reasons other than nonpayment of fees; or

(e) while under probation has violated the terms of probation.

(2) The investigation must be for the purpose of determining the probability of the existence of these conditions or the commission of these offenses and may, upon order of the board, include requiring the person to submit to a physical examination or a mental examination, or both, by a physician or physicians selected by the board or the board's representative if it appears to be in the board considers that the evaluation is in the best interests of the public ~~that this evaluation be secured~~. The board may examine and scrutinize the hospital records

and reports of a licensee or license applicant as part of the examination, and copies must be released to the board on written request.

(3) If a person holding a license to practice medicine under this chapter is by a final order or adjudication of a court of competent jurisdiction adjudged to be mentally incompetent, to be addicted to the use of addictive substances, or to have been committed pursuant to 53-21-127, the person's license may be suspended by the board. The suspension continues until the licensee is found or adjudged by the court to be restored to reason or cured or until the person is discharged as restored to reason or cured and the person's professional competence has been proved to the satisfaction of the board."

Section 16. Section 37-3-403, MCA, is amended to read:

"37-3-403. Report of prohibition or limitation on practice by hospital. ~~Each~~ With the exception of the first two violations of hospital policies related to charts, medical records, or other policies not directly associated with the clinical care of a patient, each hospital or health care facility that prohibits or limits the privilege of a physician to practice medicine within that facility shall report the action to the state board of medical examiners within 30 days after the action is taken. The report must include ~~the~~ each reason ~~or reasons~~ for the prohibition or limitation."

Section 17. Section 37-20-402, MCA, is amended to read:

"37-20-402. Criteria for licensing physician assistant. A person may not be licensed as a physician assistant in this state unless the person:

- (1) is of good moral character;
- (2) is a graduate of a physician assistant training program accredited by the accreditation review commission on education for the physician assistant or, if accreditation was granted before 2001, accredited by the American medical association's committee on allied health education and accreditation or the commission on accreditation of allied health education programs; and
- (3) has taken and passed an examination administered by the national commission on the certification of physician assistants; ~~and~~
- ~~(4) holds a current certificate from the national commission on the certification of physician assistants."~~

Section 18. Repealer. The following sections of the Montana Code Annotated are repealed:

- 37-3-304. Practice authorized by temporary license.
- 37-3-306. Physician's license -- examination -- reciprocity and endorsement.
- 37-3-311. Foreign medical graduate examination.
- 37-3-315. Qualifications for licensure -- specialized license -- suspension -- practice authorized.
- 37-3-327. Subpoena -- fees.
- 37-3-328. Failure to appear or testify.
- 37-3-341. Legislative findings.
- 37-3-342. Definition -- scope of practice allowed by telemedicine license.
- 37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations -- violations and penalty.
- 37-3-344. Application for telemedicine license.
- 37-3-345. Qualifications for telemedicine license -- basis for denial.
- 37-3-347. Reasons for denial of license -- alternative route to licensed practice.
- 37-3-348. Discipline of physician with telemedicine license.
- 37-3-349. Consent to jurisdiction.
- 37-6-304. Designations on license -- recording.

Section 19. Effective date. [This act] is effective July 1, 2015.

- END -

Repealed Telemedicine Laws (SB 77)

37-3-343. Practice of telemedicine prohibited without license -- scope of practice limitations -
- violations and penalty. (1) A physician may not practice telemedicine in this state without a
telemedicine license issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347
through 37-3-349.

(2) A telemedicine license authorizes an out-of-state physician to practice telemedicine
only with respect to the specialty in which the physician is board-certified or meets the current
requirements to take the examination to become board-certified and on which the physician
bases the physician's application for a telemedicine license pursuant to 37-3-345(2).

(3) A telemedicine license authorizes an out-of-state physician to practice only
telemedicine. A telemedicine license does not authorize the physician to engage in the practice
of medicine while physically present within the state.

(4) A telemedicine license may not be used by a physician as a means to obtain the
information required for the written certification and accompanying statements used to apply
for a registry identification card pursuant to Title 50, chapter 46, part 3.

(5) A physician who practices telemedicine in this state without a telemedicine license
issued pursuant to 37-3-301, 37-3-341 through 37-3-345, and 37-3-347 through 37-3-349, in
violation of the terms or conditions of that license, in violation of the scope of practice allowed
by the license, or without a physician's license issued pursuant to 37-3-301, is guilty of a
misdemeanor and on conviction shall be sentenced as provided in 37-3-325.

37-3-344. Application for telemedicine license. (1) A person desiring a telemedicine license
shall apply to the department and verify the application by oath, in a form prescribed by the
board.

(2) The application must be accompanied by:

(a) a license fee prescribed by board rule; and

(b) documents required by the board that establish that the applicant possesses the
qualifications prescribed by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and
the rules of the board. The burden of proof is on the applicant, but the department may make
an independent investigation to determine whether the applicant possesses the requisite
qualifications.

(3) The application must include a clear statement that the applicant consents to the
jurisdiction of the state as specified in 37-3-349.

(4) The applicant shall provide to the board authorizations necessary for the release of
records and other information required by the board.

37-3-345. Qualifications for telemedicine license -- basis for denial. The board may not grant a
telemedicine license to a physician unless the physician has established under oath that the
physician:

(1) has a full, active, unrestricted certificate or license to practice medicine or
osteopathic medicine in another state or territory of the United States or the District of
Columbia;

(2) is board-certified or meets the current requirements to take the examination to become board-certified in a medical specialty pursuant to the standards of, and approved by, the American board of medical specialties or the American osteopathic association bureau of osteopathic specialists;

(3) has no history of disciplinary action or limitation of any kind imposed by a state or federal agency in a jurisdiction where the physician is or has ever been licensed to practice medicine;

(4) is not the subject of a pending investigation by a state medical board or another state or federal agency;

(5) has no history of conviction of a crime related to the physician's practice of medicine;

(6) has submitted proof of current malpractice or professional negligence insurance coverage in the amount to be set by the rules of the board;

(7) has not paid, or had paid on the physician's behalf, on more than three claims of professional malpractice or negligence within the 5 years preceding the physician's application for a telemedicine license;

(8) has identified an agent for service of process in Montana who is registered with the secretary of state and the board and who may be a physician licensed to practice medicine in this state;

(9) has paid an application fee in an amount set by the rules of the board; and

(10) has submitted as a part of the application form a sworn statement attesting that the physician has read, understands, and agrees to abide by Title 37, chapters 1 and 3, and the administrative rules governing the practice of medicine in Montana.

37-3-347. Reasons for denial of license -- alternative route to licensed practice. (1) The board may deny an application for a telemedicine license if the applicant:

(a) fails to demonstrate that the applicant possesses the qualifications for a license required by 37-3-341 through 37-3-345 and 37-3-347 through 37-3-349 and the rules of the board;

(b) plans to use telemedicine as a means to obtain the information required for the written certification and accompanying statements used to apply for a registry identification card pursuant to Title 50, chapter 46, part 3;

(c) fails to pay a required fee;

(d) does not possess the qualifications or character required by this chapter; or

(e) has committed unprofessional conduct.

(2) A physician who does not meet the qualifications for a telemedicine license provided in 37-3-345 may apply for a physician's license in order to practice medicine in Montana.

37-3-348. Discipline of physician with telemedicine license. A physician granted a telemedicine license may be subject to investigation and discipline on the grounds that the physician has:

(1) committed unprofessional conduct, as described in 37-1-316 or in a board rule; or

(2) failed to:

- (a) maintain the qualifications provided in 37-3-345 or in a board rule;
- (b) maintain complete, legible patient records in written or readily retrievable electronic form;
- (c) make complete, legible patient records available to the board during an investigation or disciplinary proceeding concerning the physician's practice of telemedicine; or
- (d) appear and testify at a deposition within the state in the course of an investigation or disciplinary proceeding conducted under Montana law that concerns the physician's practice of telemedicine.

37-3-349. Consent to jurisdiction. A physician granted a telemedicine license shall, pursuant to 37-3-344, consent to the jurisdiction of:

- (1) the courts of Montana for the purpose of civil actions, including but not limited to tort, contract, and equitable actions, related to the physician's practice of telemedicine;
- (2) the courts of Montana for the purpose of criminal actions related to the physician's practice of telemedicine;
- (3) the board for the purposes of licensing and disciplinary action by the board; and
- (4) the Montana medical legal panel for matters within the panel's jurisdiction, as provided in Title 27, chapter 6.

What are the current licensing requirements for chemical dependency treatment and mental health treatment providers?

Several types of providers can provide one or more of these services, including professional counselors, psychologists, licensed clinical social workers, licensed social workers, and addiction counselors. The licensure requirements for each are provided in a combination of statute and administrative rule. The relevant provisions are provided below, with each different type of provider underlined before the requirements are listed.

Psychiatrists are licensed by the Board of Medical Examiners as physicians and the license requirements are not listed in this document. The document also does not include continuing education requirements for the various licensees. Information on other types of providers not listed here can be gathered upon request.

Social Work

Title 37, chapter 22, MCA, governs social work and provides for a Board of Behavioral Health. Part 3 of this chapter contains the licensure requirements for social workers. Specifically, sections 37-22-301 and 37-22-305, MCA, provide the license requirements. Additional requirements are listed in administrative rule 24.219.504. These requirements are summarized on the license application, which is included below. The statutory and administrative rule language follows the application page.

Links:

- Section 37-22-301: <http://leg.mt.gov/bills/mca/37/22/37-22-301.htm>
- Section 37-22-305: <http://leg.mt.gov/bills/mca/37/22/37-22-305.htm>
- ARM http://www.mtrules.org/gateWay/Print_RV.Asp?RV=27377
- Board of Behavioral Health website: http://b.bsd.dli.mt.gov/license/bsd_boards/bbh_board/board_page.asp

Montana Board of Social Work Examiners and Professional Counselors
(Marriage and Family Therapists are now regulated by this Board)
301 South Park, 4th Floor, PO Box 200513
Helena, Montana 59620-0513
Phone (406) 841-2203 Fax (406) 841-2305
Email: dlibsdswp@mt.gov
Website: www.swpc.mt.gov

APPLICATION PROCEDURES FOR CLINICAL SOCIAL WORK

**This application is used for the Montana Clinical Social Work License.
Application requirements for licensure by exam and for licensure by endorsement/licensure of
out-of-state applicants. Licensure by Endorsement requirements are defined below.**

REQUIREMENTS FOR LICENSURE BY EXAMINATION:

- ◆ **Academic Requirements:** Masters Degree in Social Work (MSW) or Doctorate in Social Work (DSW) from a college or university accredited by the Council on Social Work Education (CSWE). Montana does not license individuals with a bachelor's degree in social work. An official transcript must be sent to the board office directly from your college or university.
- ◆ **Supervised Post-Degree Experience Hours:** (24.219.504, ARM) 3,000 hours of psychotherapy or clinical social work services done in the past five years and completed in not less than 24 months, documented on the Supervisory Report form and the Supervision Summary form included in this packet as outlined below:
 - a. 3,000 hours supervised by a qualified supervisor. A qualified supervisor is defined as a licensed clinical social worker, a licensed clinical professional counselor, a licensed psychologist or a psychiatrist.
 - b. 100 documented hours of individual and/or group supervision.
50 of these hours shall be individual and face-to-face by an LCSW and include 10 hours of direct observation of the service delivery.
 - c. No more than 160 hours of experience shall transpire without at least two (2) hours of supervision.
 - d. The total requirement (3,000 hours) shall be completed at the time of application and documented on the forms provided in the application packet.
- ◆ **Reference Letters:** Three (3) current letters from licensed social workers, licensed psychologists or licensed psychiatrists are required. The letters must be written directly to the board, attesting to the applicant's professional performance. A supervisor of the applicant must write at least one of the letters. {37-22-301(2), MCA} An electronic version of the reference letter is available on the website at www.swpc.mt.gov. Click on the "Forms" tab.
- ◆ **Application:** Application must be made on Montana's forms. All forms in the packet must be completed. No other state's licensing application forms will be accepted as a substitute. (24.219.501, ARM).
- ◆ ALL APPLICANTS for licensure will be required to obtain a fingerprint and background check from the Department of Justice. Applicants must contact the board office and request a fingerprint packet.

**APPLICATION PROCEDURES AND SUPPORTING DOCUMENTS FOR LICENSURE BY
ENDORSEMENT:**

- ◆ A completed, signed application form.
- ◆ Supervisory Experience Forms completed by the applicant and supervisor, or the applicant shall submit proof of previous completion of 3,000 hours of supervised social work experience as defined in 37-22-301, MCA. The candidate may verify the experience hours by affidavit, and need not supply a supervisor's signature upon reasonable explanation of why the supervisor's signature is unavailable to the candidate,
or
- ◆ The candidate shall submit proof the candidate has been in continuous practice as a social worker in another jurisdiction for the two years immediately preceding the date of application to Montana.
- ◆ Official graduate transcripts sent directly to the board office from the school.
- ◆ Three reference letters, addressed directly to the board, from licensed social workers, licensed psychologists or licensed psychiatrists.
- ◆ ALL APPLICANTS for licensure will be required to obtain a fingerprint and background check from the Department of Justice. Applicants must contact the board office and request a fingerprint packet.

37-22-301. License requirements -- exemptions. (1) A license applicant shall satisfactorily complete an examination prescribed by the board.

(2) Before an applicant may take the examination, the applicant shall present three letters of reference from licensed social workers, licensed clinical social workers, psychiatrists, or psychologists who have knowledge of the applicant's professional performance and shall demonstrate to the board that the applicant:

(a) has a doctorate or master's degree in social work from a program accredited by the council on social work education or approved by the board;

(b) has completed at least 24 months of supervised post master's degree work experience in psychotherapy, which included 3,000 hours of social work experience, of which at least 1,500 hours were in direct client contact, within the past 5 years; and

(c) abides by the social work ethical standards adopted under 37-22-201.

(3) An applicant who fails the examination may reapply to take the examination.

(4) An applicant is exempt from the examination requirement if the applicant satisfies the board that the applicant is licensed, certified, or registered under the laws of a state or territory of the United States that imposes substantially the same requirements as this chapter and that the applicant has passed an examination similar to that required by the board.

(5) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(6) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied.

History: En. Sec. 6, Ch. 544, L. 1983; amd. Sec. 1, Ch. 78, L. 1987; amd. Sec. 1, Ch. 552, L. 1993; amd. Sec. 65, Ch. 467, L. 2005; amd. Sec. 5, Ch. 460, L. 2007.

37-22-305. Representation to public as licensed clinical social worker -- limitations on use of title -- limitations on practice. (1) Upon issuance of a license in accordance with this chapter, a licensee may use the title "licensed clinical social worker". Except as provided in subsection (2), a person may not represent that the person is a licensed clinical social worker by adding the letters "LSW" or "LCSW" after the person's name or by any other means unless licensed under this chapter.

(2) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title "licensed social worker" or "LSW" may use the title "licensed clinical social worker" or "LCSW".

(3) Subsection (1) does not prohibit:

(a) qualified members of other professions, such as physicians, psychologists, lawyers, pastoral counselors, educators, or the general public engaged in social work like activities, from doing social work consistent with their training if they do not hold themselves out to the public by a title or description incorporating the words "licensed social worker" or "licensed clinical social worker";

(b) activities, services, and use of an official title by a person in the employ of or under a contract with a federal, state, county, or municipal agency, an educational, research, or charitable institution, or a health care facility licensed under the provisions of Title 50, chapter 5, that are a part of the duties of the office or position;

(c) an employer from performing social work like activities performed solely for the benefit of employees;

(d) activities and services of a student, intern, or resident in social work pursuing a course of study at an accredited university or college or working in a generally recognized training center if the activities and services constitute a part of the supervised course of study;

(e) activities and services by a person who is not a resident of this state that are rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year if the person is authorized under the law of the state or country of residence to perform the activities and services. However, the person shall report to the department the nature and extent of the activities and services if they exceed 10 days in a calendar year.

(f) pending disposition of the application for a license, activities and services by a person who has recently become a resident of this state, has applied for a license within 90 days of taking up residency in this state, and is licensed to perform the activities and services in the state of former residence; or

(g) activities or services of a social worker licensure candidate, professional counselor licensure candidate, or marriage and family therapist licensure candidate.

History: En. Sec. 5, Ch. 544, L. 1983; amd. Sec. 3, Ch. 552, L. 1993; amd. Sec. 4, Ch. 130, L. 2015.

24.219.504 LICENSURE REQUIREMENTS

(1) For the purpose of meeting the 3000-hour requirement of 37-22-301(2)(b), MCA, an applicant shall provide verification of the following:

(a) 3000 supervised hours spent providing psychotherapy or clinical social work services to individuals, families, and groups, of which at least 50 percent shall include the application of psychosocial methods in direct client contact;

(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 a record of supervision. The applicant must maintain the record of supervision, which may be requested by the board and must include:

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

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

(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) supervision which has been conducted on a regular basis. No more than 160 hours of social work experience shall transpire without providing at least two hours of supervision. Less frequent supervision may take place under unusual circumstances only with prior approval by the board.

(d) supervisor's experience and expertise with the applicant's client population (i.e. child, adolescent, adult, chemically dependent) and methods of practice (i.e. individual, group, family, crisis or brief interventions).

(e) supervisor's relationship with the applicant which shall not constitute a conflict of interest, such as (but not limited to) being in a cohabitation or financially dependent relationship with the applicant, or being the applicant's parent, child, spouse or sibling.

(f) a supervision agreement in writing and in a format approved by the board. The agreement shall include, but not be limited to:

(i) the applicant's and supervisor's names, signature and dates;

(ii) terms of the agreement including financial compensation, frequency and method of supervision, duration and termination provision; and

(iii) a statement of confidentiality and the supervisor's qualifications.

(2) The 3000 hours shall have been completed in their entirety at the time of submission of the application.

History: 37-1-131, 37-22-201, MCA; IMP, 37-1-131, 37-22-301, MCA; NEW, 1984 MAR p. 440, Eff. 3/16/84; AMD, 1988 MAR p. 169, Eff. 1/29/88; AMD, 1993 MAR p. 1325, Eff. 6/25/93; AMD, 1994 MAR p. 26, Eff. 12/24/93; TRANS, from Commerce, 2004 MAR p. 1477; AMD, 2009 MAR p. 2158, Eff. 11/13/09.

Professional Counseling

Title 37, chapter 23, MCA, sets out parameters for professional counseling, which is also governed by the Board of Behavioral Health. Part 2 of this chapter contains the licensure requirements for social workers. Specifically, sections 37-23-201 and 37-23-202, MCA, provide the license requirements. Additional requirements are listed in administrative rule 24.219.604. These requirements are summarized on the license application, which is included below. The statutory and administrative rule language follows the application page.

Links:

- Section 37-23-201: <http://leg.mt.gov/bills/mca/37/23/37-23-201.htm>
- Section 37-23-202: <http://leg.mt.gov/bills/mca/37/23/37-23-202.htm>
- ARM 24.219.604: http://www.mtrules.org/gateWay/Print_RV.Asp?RV=27380
- Board of Behavioral Health:
http://b.bsd.dli.mt.gov/license/bsd_boards/bbh_board/board_page.asp

**Montana Board of Social Work Examiners and Professional Counselors
(Marriage and Family Therapists are also regulated by this Board)**

**301 South Park, 4th Floor, PO Box 200513
Helena, Montana 59620-0513
Phone (406) 841-2203 Fax (406) 841-2305
Email: dlibsdswp@mt.gov
Website: www.swpc.mt.gov**

MONTANA CLINICAL PROFESSIONAL COUNSELOR LICENSE APPLICATION

Applicants may apply for licensure either by examination or by credential.

REQUIREMENTS FOR LICENSURE BY EXAMINATION:

- ◆ **Academic Requirements:** Applicant must have a 60 semester hour or 90 quarter hour graduate degree from a college or university accredited by a regional accrediting entity, that includes a six-semester credit (or nine-quarter credit) advanced counseling practicum course; or a graduate counseling degree with a minimum of 45 semesters (or 67.5 quarter hours), and has obtained graduate level courses to equal the total requirement of a 60-semester credit graduate degree. The classes must be graduate level counseling courses from an accredited institution. A formal transcript is accepted as proof of attendance. Official graduate transcripts should be sent directly to the board office from the college or university.
- ◆ **Supervision Requirement:** Applicant must complete 3,000 supervised experience hours prior to application. A minimum of 1,500 hours may be done pre-degree. A minimum of 1,500 hours **must** be done post-degree. A licensed counselor, social worker, psychologist, psychiatrist, or licensed mental health professional, are qualified to provide supervision. 1,000 of the 1,500 post-degree hours must be in direct client contact. Practice hours are engaging in the practice of counseling as defined in 37-23-102(3), MCA.
- ◆ **Reference/Nomination Letters:** Three (3) letters are required. The letters are to be provided by individuals in the mental health care profession. These individuals should be able to attest to the applicant's aptitude and performance in the profession.
- ◆ **Application Forms and Fee:** Application must be made using official Montana application forms. All forms in the packet must be completed and an application fee must be paid.
No other state's licensing application forms will be accepted as a substitute.
(ARM 24.219.601)
- ◆ **Fingerprint and Background Check:** Applicant is required to obtain a federal fingerprint and background check from Montana Department of Justice. Applicant should contact the board office for a fingerprint packet.

REQUIREMENTS FOR LICENSURE BY CREDENTIAL:

Applicants may apply for licensure by endorsement if they hold a Clinical Professional Counselor License or equivalent license in another state.

- ◆ **Academic Requirements:** Applicant must have official graduate transcripts sent to the board office from the college or university.
- ◆ **Supervision Requirements:** Applicants must either submit completed Supervisory Experience Forms, or proof of previous completion of 3,000 hours of supervised clinical work experience as defined in 37-23-202, MCA. The candidate may verify the experience hours by affidavit, and need not supply a supervisor's signature up on reasonable explanation of why the supervisor's signature is unavailable to the candidate, or the candidate shall submit proof the candidate has been in continuous practice as a clinical counselor in another jurisdiction for the two years immediately preceding the date of application to Montana.
- ◆ **Reference/Nomination Letters:** Three (3) letters are required. The letters are to be provided by individuals in the mental health care profession. These individuals should be able to attest to the applicant's aptitude and performance in the profession.
- ◆ **Application Forms and Fees:** Applicant must submit completed, signed application with application fee payment.
- ◆ **Fingerprint and Background Check:** Applicant is required to obtain a federal fingerprint and background check from Montana Department of Justice. Applicant should contact the board office for a fingerprint packet.

37-23-201. Representation or practice as licensed clinical professional counselor -- license required.

(1) Upon issuance of a license in accordance with this chapter, a licensee may use the title "licensed clinical professional counselor" or "professional counselor".

(2) Except as provided in subsection (3), a person may not represent that the person is a licensed professional counselor or licensed clinical professional counselor by adding the letters "LPC" or "LCPC" after the person's name or by any other means, engage in the practice of professional counseling, or represent that the person is engaged in the practice of professional counseling, unless licensed under this chapter.

(3) Individuals licensed in accordance with this chapter before October 1, 1993, who use the title "licensed professional counselor" or "LPC" may use the title "licensed clinical professional counselor" or "LCPC".

(4) Subsection (2) does not prohibit:

(a) a qualified member of another profession, such as a physician, lawyer, pastoral counselor, probation officer, court employee, nurse, school counselor, educator, chemical dependency counselor accredited by a federal agency, or addiction counselor licensed pursuant to Title 37, chapter 35, from performing duties and services consistent with the person's licensure or certification and the code of ethics of the person's profession or, in the case of a qualified member of another profession who is not licensed or certified or for whom there is no applicable code of ethics, from performing duties and services consistent with the person's training, as long as the person does not represent by title that the person is engaging in the practice of professional counseling;

(b) an activity or service or use of an official title by a person employed by or acting as a volunteer for a federal, state, county, or municipal agency or an educational, research, or charitable institution that is a part of the duties of the office or position;

(c) an activity or service of an employee of a business establishment performed solely for the benefit of the establishment's employees;

(d) an activity or service of a student, intern, or resident in mental health counseling pursuing a course of study at an accredited university or college or working in a generally recognized training center if the activity or service constitutes a part of the supervised course of study;

(e) an activity or service of a person who is not a resident of this state, which activity or service is rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year, if the person is authorized under the law of the state or country of residence to perform the activity or service. However, the person shall report to the department of labor and industry the nature and extent of the activity or service if it exceeds 10 days in a calendar year.

(f) pending disposition of the application for a license, the activity or service by a person who has recently become a resident of this state, has applied for a license within 90 days of taking up residency in this state, and is licensed to perform the activity or service in the state of the person's former residence;

(g) an activity or service of a person who is a social worker licensure candidate, professional counselor licensure candidate, or marriage and family therapist licensure candidate; or

(h) an activity or service performed by a licensed social worker, licensed psychiatrist, or licensed psychologist when performing the activity or service in a manner consistent with the person's license and the code of ethics of the person's profession.

History: En. Sec. 4, Ch. 572, L. 1985; amd. Sec. 9, Ch. 552, L. 1993; amd. Sec. 2, Ch. 536, L. 1995; amd. Sec. 12, Ch. 507, L. 1997; amd. Sec. 4, Ch. 23, L. 2001; amd. Sec. 130, Ch. 483, L. 2001; amd. Sec. 7, Ch. 130, L. 2015.

37-23-202. Licensure requirements. (1) An applicant for licensure must have satisfactorily:

(a) completed a planned graduate program of 60 semester hours, primarily counseling in nature, 6 semester hours of which were earned in an advanced counseling practicum that resulted in a graduate degree from an institution accredited to offer a graduate program in counseling;

(b) completed 3,000 hours of counseling practice supervised by a licensed professional counselor or licensed member of an allied mental health profession, at least half of which was postdegree. The applicant must have each supervisor endorse the application for licensure, attesting to the number of hours supervised.

(c) passed an examination prepared and administered by:

(i) the national board of certified counselors; or

(ii) the national academy of certified clinical mental health counselors; and

(d) completed an application.

(2) The board shall provide by rule for licensure of a person who possesses a graduate degree that consists of a minimum of 45 semester hours primarily related to counseling and that is from an institution accredited to offer a graduate program in counseling, by specifying the additional graduate credit hours necessary to fulfill the requirements of subsection (1)(a) in counseling courses in an approved program within a period of 5 years.

(3) As a prerequisite to the issuance of a license, the board shall require the applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(4) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust, and if the board determines that the applicant is not, the license may be denied.

History: En. Sec. 5, Ch. 572, L. 1985; amd. Sec. 3, Ch. 78, L. 1987; amd. Sec. 1, Ch. 197, L. 1993; amd. Sec. 10, Ch. 552, L. 1993; amd. Sec. 77, Ch. 429, L. 1995; amd. Sec. 68, Ch. 467, L. 2005; amd. Sec. 6, Ch. 460, L. 2007.

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 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.

(2) "Advanced counseling practicum" shall include:

(a) Supervision by licensed program faculty to include:

(i) a minimum of 30 hours individual face-to-face consultation and review with supervisor;

(ii) a minimum of 45 hours small group supervisory consultation with supervisor and peers in practicum program;

(b) A minimum of 200 clock hours of service to clients which includes:

(i) a minimum of 80 hours offering face-to-face direct service to individual, family and group clients;

(ii) an additional 45 hours which may include any of the above plus audio and videotape review, two-way mirror observations, research, writing case notes, collateral contacts and any other nonspecified activities deemed appropriate by the practicum supervisor to enhance the student's expertise in providing services to the client population.

(3) "3000 hours" is defined as clock hours of experience working in a counseling setting. The hours shall have been completed in their entirety at the time of submission of the application.

(a) 1500 of these hours may be obtained prior to completion of the academic degree. This can include hours earned in practicums, internships and work sites approved by the program faculty.

(i) Exclusive of the advanced practicum requirement, the degree candidate shall receive one hour of face-to-face supervision and/or consultation for every 15 hours of work from a licensed mental health professional, a licensed member of the faculty staff or an on-site counseling professional deemed appropriate by the faculty staff.

(ii) Appropriate sites for this predegree counseling experience is left to the discretion of the counseling faculty of the institution offering the degree.

(iii) All treatment interventions and assessment results and interpretations shall be reviewed and approved by the supervisor or appropriate faculty prior to their use or implementation.

(b) At least 1500 hours must be obtained post-degree and after all of the academic requirements have been completed, which shall include at least:

(i) 1000 hours direct face-to-face client contact in a clinical setting. No more than 250 client contact hours of which may be in a group or co-facilitative counseling situation.

(ii) Clinical setting is defined as any public and/or private agency whose primary functions are:

(A) conducting psychosocial assessments and diagnoses for the purpose of establishing treatment goals and objectives;

(B) planning, implementing and evaluating treatment plans that use treatment interventions to facilitate human development and to identify and remediate mental, emotional or behavioral disorders and associated distresses that interfere with mental health, social functioning, or the functioning of established social units;

(C) selecting, administering, scoring, and interpreting psychosocial assessment instruments to assess personal characteristics and using nonstandardized methods and techniques for understanding human behavior in relation to coping with or adapting to changing life situations;

(D) implementing counseling treatment interventions using those cognitive, affective, behavioral sciences that are specifically implemented in the context of a therapeutic relationship; or

(E) evaluating information to identify needs or problems of an individual or social units to determine the advisability of referral to other specialists, informing the individual(s) of the judgment, and communicating as requested or considered appropriate with the referral sources.

(c) All reports and/or assessment interpretations and results sent to other public or private agencies that affects the current social status of a client must be reviewed by and contain the approval and signature of the trainee's supervisor. These reports shall identify the supervisee's "in training" nonlicensed status.

(d) All therapeutic interventions and the assessment results and interpretations used in the planning and/or implementation of those therapeutic interventions shall be reviewed and preapproved by the trainee's supervisor on a continual and on-going basis.

(e) All professional communications, both private and public, including advertisements, shall clearly indicate the supervisee's "in-training" and nonlicensed status.

(f) The applicant must receive a minimum of one hour of face-to-face supervision and consultation for every 20 hours of work experience. No more than 80 hours of work experience may transpire without receiving the required hours of supervision and/or consultation. Less frequent supervision may take place only with prior approval of the licensure board. Any hours earned without appropriate supervision will not be counted towards licensure.

(g) The supervision guidelines are as follows:

(i) must be a licensed mental health professional in the state of residence;

(ii) the supervision agreement shall be in writing and in a format approved by the board. The agreement shall include, but not be limited to:

(A) the applicant's and supervisor's names, signatures and dates;

(B) terms of the agreement including financial compensation, frequency and method of supervision, duration and termination provision; and

(C) a statement of confidentiality and the supervisor's qualifications.

(iii) supervisor's relationship with applicant shall not constitute a conflict of interest, such as, but not limited to, being in a cohabitation or financially dependent relationship with the applicant, or being the applicant's parent, child, spouse or sibling;

(iv) 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) supervisor must attest to the above under penalty of law. Falsification or misrepresentation of any of the above may be considered misrepresentation and a violation of professional ethics, which may result in discipline of the supervisor's license.

(4) If an applicant fails the examination, the applicant may retake the examination upon payment of the exam fee.

(5) Notwithstanding the above 60 semester hour requirement, an applicant otherwise qualified for licensure, may apply for licensure if they possess a minimum 45 semester hour graduate degree that is primarily related to counseling and is from an institution accredited to offer a graduate program in counseling, if they complete such additional graduate hours approved by this board as necessary to fulfill the requirements of (1)(a) within five years from the date of review by this board.

History: 37-1-131, 37-22-201, MCA; IMP, 37-1-131, 37-23-202, MCA; NEW, 1986 MAR p. 662, Eff. 4/25/86; AMD, 1989 MAR p. 319, Eff. 2/24/89; AMD, 1993 MAR p. 1325, Eff. 6/25/93; AMD, 1994 MAR p. 26, Eff. 12/24/93; AMD, 1997 MAR p. 986, Eff. 6/3/97; AMD, 2001 MAR p. 558, Eff. 4/6/01; AMD, 2003 MAR p. 14, Eff. 10/18/02; TRANS, from Commerce, 2004 MAR p. 1477; AMD, 2009 MAR p. 2158, Eff. 11/13/09.

Addiction Counselors

Title 37, chapter 35, MCA, sets out parameters for licensed addiction counselors, who are also governed by the Board of Behavioral Health. Part 2 of this chapter contains the licensure requirements for addiction counselors. Specifically, sections 37-35-201 and 37-35-202, MCA, provide the license requirements. Additional requirements are listed in administrative rules 24.154.405 and 24.154.409. These requirements are summarized on the license application, which is included below. The statutory and administrative rule language follows the application page.

LINKS

- Section 37-35-201: <http://leg.mt.gov/bills/mca/37/35/37-35-201.htm>
- Section 37-35-202: <http://leg.mt.gov/bills/mca/37/35/37-35-202.htm>
- ARM 24.154.405: http://mtrules.org/gateWay/Print_RV.Asp?RV=38309
- ARM 24.154.409: http://mtrules.org/gateWay/Print_RV.Asp?RV=39528
- Board of Behavioral Health:
http://b.bsd.dli.mt.gov/license/bsd_boards/bbh_board/board_page.asp

APPLICATION PROCEDURE FOR LICENSED ADDICTION COUNSELING
PLEASE ALLOW 30 DAYS FOR PROCESSING AFTER RECEIPT OF ALL REQUIRED DOCUMENTATION

LICENSURE REQUIREMENTS:

- ◆ Must provide an official transcript from an accredited college or university,
- ◆ Must provide verification of 270 contact hours of specific chemical dependency/addiction and counseling courses.
- ◆ Must have completed 1,000 hours of supervised work experience in an approved chemical dependency treatment setting.
- ◆ Must have passed the National Certification Examination for Addiction Counselors (Level I), developed by the National Association of Alcoholism and Drug Abuse Counselors (NAADAC).

FEES:

- ◆ \$200.00 Application Fee (payable to Montana Licensed Addiction Counselors Program).
- ◆ \$135.00 Written Examination Fee (payable directly to the Professional Testing Corporation.)
- ◆ \$ 50.00 Original License Fee

Make check or money order payable as noted above DO NOT SEND CASH

DOCUMENTS: The following information and/or documentation are required:

1. Completed application form and application fee,
2. Verification of 270 addiction counseling specific hours, pages 6 and 7
3. Identification of supervisor (Form D) and supervision site, and
4. Verification of 1,000 hours of supervised work experience (Form E and Form F).
5. License verifications of all credentials in all jurisdictions regardless of current status; this includes, but is not limited to all pending, expired or terminated licenses.

APPLICATION PROCEDURES:

- ◆ Individuals applying for Licensed Addiction Counselor in Montana must meet the education requirement before beginning the 1,000 hours of supervised work experience. Individuals who have submitted an application before completing the supervised work experience, whose education meets the requirements will be determined to be "eligible" for licensure. Eligible applicants must complete the 1,000 hours of supervised work experience by the date of the examination.
- ◆ If licensure is not completed within 18 months after the supervised work experience, the application will be closed, and the applicant will need to re-apply, and complete a new supervision experience and examination.

LICENSURE BY ENDORSEMENT (Applicants licensed in another state)

- ◆ Completed application form and application fee.
- ◆ Official transcripts sent directly from an accredited college or university.
- ◆ Documentation of 2,000 hours of supervised chemical dependency counseling in a chemical dependency treatment setting.
- ◆ License Verification of a current, valid license sent directly from the State Licensing Agency with a copy of the standards required for licensure.
- ◆ Documentation and verification of written examination comparable to the NAADAC Level I exam

PROCESSING PROCEDURES

- ◆ Once a routine application is complete, the application takes up to 30 days to process from the time it is received in the Program office.
- ◆ The applicant will be notified in writing of any deficient or missing items from the application file.
- ◆ Once a routine application is processed and approved a permanent license will be issued.

For information with regard to the processing of this application or other concerns please contact the Licensed Addiction Counselors Program staff or email us at dlibsdlac@mt.gov

PLEASE BE SURE TO REVIEW THE MONTANA LAWS AND RULES FOR THE PRACTICE OF ADDICTION COUNSELING ON OUR WEBSITE: www.lac.mt.gov

37-35-201. License required -- exceptions. (1) Except as otherwise provided in this chapter, a person may not practice addiction counseling or represent to the public that the person is a licensed addiction counselor unless the person is licensed under the provisions of this chapter.

(2) This chapter does not prohibit an activity or service:

(a) performed by a qualified member of a profession, such as a physician, lawyer, licensed professional counselor, licensed social worker, licensed psychiatrist, licensed psychologist, nurse, probation officer, court employee, pastoral counselor, or school counselor, consistent with the person's licensure or certification and the code of ethics of the person's profession, as long as the person does not represent by title that the person is a licensed addiction counselor. If a person is a qualified member of a profession that is not licensed or certified or for which there is no applicable code of ethics, this section does not prohibit an activity or service of the profession as long as the person does not represent by title that the person is a licensed addiction counselor.

(b) of, or use of an official title by, a person employed or acting as a volunteer for a federal, state, county, or municipal agency or an educational, research, or charitable institution if that activity or service or use of that title is a part of the duties of the office or position;

(c) of an employee of a business establishment performed solely for the benefit of the establishment's employees;

(d) of a student in addiction counseling who is pursuing a course of study at an accredited college or university or who is working in a generally recognized training center if the activity or service constitutes part of the course of study;

(e) of a person who is registered as an addiction counselor licensure candidate;
or

(f) of a person who is not a resident of this state if the activity or service is rendered for a period that does not exceed, in the aggregate, 60 days during a calendar year and if the person is authorized under the laws of the state or country of residence to perform the activity or service. However, the person shall report to the board the nature and extent of the activity or service if it exceeds 10 days in a calendar year.

(3) This chapter is not intended to limit, preclude, or interfere with the practice of other persons and health care providers licensed by the appropriate agencies of the state of Montana.

History: En. Sec. 4, Ch. 507, L. 1997; amd. Sec. 8, Ch. 23, L. 2001; amd. Sec. 36, Ch. 109, L. 2009; amd. Sec. 8, Ch. 288, L. 2015.

37-35-202. Licensure and registration requirements -- examination -- fees -- fingerprint check. (1) To be eligible for licensure as a licensed addiction counselor, the applicant shall submit an application fee in an amount established by the board by rule and a written application on a form provided by the board that demonstrates that the applicant has completed the eligibility requirements and competency standards as defined by board rule.

(2) A person may apply for licensure as a licensed addiction counselor if the person has:

(a) received a baccalaureate or advanced degree in alcohol and drug studies, psychology, sociology, social work, or counseling, or a comparable degree from an accredited college or university; or

(b) received an associate of arts degree in alcohol and drug studies, addiction, or substance abuse from an accredited institution.

(3) Prior to becoming eligible to begin the examination process, each person shall complete supervised work experience in an addiction treatment program as defined by the board, in a program approved by the board, or in a similar program recognized under the laws of another state.

(4) Each applicant shall successfully complete a competency examination, in writing only, as defined by rules adopted by the board.

(5) (a) Except as provided in subsections (5)(d) and (6), an applicant who has completed the requirements of subsection (2) but has not completed the required supervised work experience may apply for registration as an addiction counselor licensure candidate.

(b) An application for registration as an addiction counselor licensure candidate must be approved if it is determined that:

(i) a complete application approved by the board has been submitted;

(ii) there is no legal or disciplinary action against the applicant in this or any other state;

(iii) the applicant for registration as an addiction counselor licensure candidate may only function under the supervision of a supervisor who is trained in addiction counseling or a related field as defined by rule and who has an active license in good standing in Montana or any other state; and

(iv) the applicant has completed all educational requirements as prescribed in subsection (2)(a) or (2)(b).

(c) A person registered as an addiction counselor licensure candidate shall register annually until the person becomes a licensed addiction counselor. The board may limit the number of years that a person may act as an addiction counselor licensure candidate.

(d) A student is not required to register as an addiction counselor licensure candidate.

(6) The provisions of subsection (5) do not apply until the board has adopted rules implementing this section. The rules must provide for a waiver of the provisions of subsection (5) for a person who is engaged in a supervised work experience prior to the adoption of the rules.

(7) (a) As a prerequisite to the issuance of a license and registration as an addiction counselor licensure candidate, the board shall require an applicant to submit fingerprints for the purpose of fingerprint checks by the Montana department of justice and the federal bureau of investigation as provided in 37-1-307.

(b) If an applicant has a history of criminal convictions, then pursuant to 37-1-203, the applicant has the opportunity to demonstrate to the board that the applicant is sufficiently rehabilitated to warrant the public trust and if the board determines that the applicant is not, the license may be denied.

(8) A person holding a license to practice as a licensed addiction counselor in this state may use the title "licensed addiction counselor".

(9) For the purposes of this section, "comparable degree" means a degree with accredited college course work, of which 6 credit hours must be in human behavior, sociology, psychology, or a similar emphasis, 3 credit hours must be in psychopathology or course work exploring patterns and courses of abnormal or deviant behavior, and 9 credit hours must be in counseling. For the 9 credit hours in counseling, 6 credit hours must be in group counseling and 3 credit hours must be in the theory of counseling. The credit hours specified in this subsection may be obtained in an associate or master's degree program if the applicant does not have a qualifying baccalaureate degree.

History: En. Sec. 5, Ch. 507, L. 1997; amd. Secs. 9, 10, Ch. 23, L. 2001; amd. Sec. 41, Ch. 126, L. 2005; amd. Sec. 37, Ch. 109, L. 2009; amd. Sec. 9, Ch. 288, L. 2015.

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 September 20, 2013.

(2) Applicants for counselor certification must meet one of the following three education requirements, and must provide information regarding the chemical dependency treatment setting in which the 1000 hours supervised chemical dependency counseling experience will be completed, as well as the name of the certified counselor approved to supervise chemical dependency counseling experience. Applicants must provide certified transcripts or certificates of completion as proof of successful completion of one of the following education programs:

(a) a baccalaureate degree in alcohol and drug studies, psychology, social work, counseling or a related field from an accredited college or university; or

(b) an associate of arts or applied science degree in alcohol and drug studies, chemical dependency or substance abuse from an accredited college or university; or

(c) graduation from a formal chemical dependency counselor training program which is at least one year in duration and has been approved by the department or recognized under the laws of another state. The formal training program must include 400 hours of classroom preparation and 1600 hours of documented clinical training. Applicants must submit a certificate of graduation with application, as well as a description of the curriculum and training provided.

(3) All education requirements must include 270 contact hours of specific chemical dependency or 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:

(a) chemical dependency assessment and patient placement (must include chemical dependency assessment, biopsychosocial testing, diagnosis, referrals and patient placement); 30 hours

(b) counseling; 45 hours

(c) pharmacology (must include drug classification, effects, detoxification and withdrawal); 12 hours

(d) ethics (ethics for addiction counselors); 6 hours

(e) alcohol and drug studies; 30 hours

(f) treatment planning and documentation 15 hours

(g) multicultural competency - knowledge of and sensitive to the cultural factors and needs of diverse populations and demonstrate competency in applying culturally relevant skills. 12 hours

History: 37-35-103, MCA; IMP, 37-35-202, MCA; NEW, 1998 MAR p. 1408, Eff. 5/29/98; AMD, 2000 MAR p. 2963, Eff. 10/27/00; TRANS, from Commerce, 2008 MAR p. 380; AMD, 2013 MAR p. 1688, Eff. 9/20/13.

24.154.409 SUPERVISED WORK EXPERIENCE

(1) Six months (1000 hours) of supervised work experience hours in a qualified treatment setting is required for licensure.

(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. Observation of the work of applicants by supervisors may occur via Skype or other similar technological means.

(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 as follows. The remaining hours must be under onsite clinical supervision in each of the 11 skill areas.

Skill Areas	Hours
screening	30
assessment/patient placement	100
treatment planning	50
referrals	20
case management	50
individual counseling	60
group counseling	100
client education	35

documentation	35
professional and ethical responsibilities	10
multicultural competency	10
TOTAL	500

(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 permit 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 include any level of care as defined by American Society of Addiction Medicine (ASAM) in The ASAM Criteria: Treatment Criteria for Addictive, Substance-Related, and Co-Occurring Conditions (October 24, 2013).

(a) Qualified treatment settings for supervised work experience are:

(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.

History: 37-35-103, MCA; IMP, 37-35-202, MCA; NEW, 1998 MAR p. 1408, Eff. 5/29/98; TRANS, from Commerce, 2008 MAR p. 380; AMD, 2013 MAR p. 1688, Eff. 9/20/13; AMD, 2014 MAR p. 118, Eff. 1/17/14.

Psychologists

Title 37, chapter 17, MCA, sets out parameters for psychologists, who are governed by the Board of Psychologists. Part 3 of this chapter contains the licensure requirements for psychologists. Specifically, section 37-17-302, MCA, provides the qualifications. Additional requirements are listed in administrative rule in Rule Subchapter 24.189.6. These requirements are summarized on the license application, which is included below. The statutory language follows the application pages.

LINKS

- Section 37-17-302, MCA: <http://leg.mt.gov/bills/mca/37/17/37-17-302.htm>
- Rule Subchapter 24.189.6:
<http://mtrules.org/gateway/Subchapterhome.asp?scn=24%2E189.6>
- Board of Psychologists:
http://b.bsd.dli.mt.gov/license/bsd_boards/psy_board/board_page.asp

MONTANA BOARD OF PSYCHOLOGISTS
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EMAIL: dlibspsy@mt.gov WEBSITE: www.psy.mt.gov

ILLEGIBLE AND INCOMPLETE APPLICATIONS WILL BE RETURNED.

(All work samples must be reviewed by the members of the Board at a Board meeting. Average approval time, after receipt of a completed application, is 60 days.)

LICENSE REQUIREMENTS:

PSYCHOLOGIST LICENSURE BY EXAM

- ◆ Must be 18 years of age or older
- ◆ Must be of good moral character
- ◆ Received a doctoral degree in clinical psychology from an accredited college or university having an appropriate graduate program approved by the American Psychological Association (APA); **or** have received a doctoral degree in psychology from an accredited college or university not approved by the APA and have successfully completed a formal graduate retraining program in clinical psychology approved by the APA; **or** have received a doctoral degree in psychology from an accredited college or university and have completed a course of study that meets the minimum standards specified in rules by the Board.
To determine whether a course of study meets the minimum standards in Board rule ARM 24.189.604, applicants shall have their educational credentials evaluated by the Association of State & Provincial Psychology Boards (ASPPB) www.asppb.net. The fee required for this service shall be paid by the applicant to ASPPB. The current ASPPB fee is \$200.00.
- ◆ Completed at the time of application a minimum of 2 years of supervised experience in the practice of psychology. One year of this experience must be postdoctoral but may not include more than 6 months of supervised research, teaching, or a combination of both (see ARM 24.189.607).
- ◆ Have passed the written Examination for Professional Practice in Psychology and passed an oral examination conducted by the Board.
- ◆ Submitted a complete application no later than 90 days prior to the examination date, accompanied by the appropriate fee and all supporting documents.

PSYCHOLOGIST LICENSEES FROM OTHER STATES/PROVINCES

- ◆ Have a current license in good standing from a state or Canadian province whose license standards were substantially equivalent to or greater than the current requirements of Montana law (see 1-4 bullets above).
- ◆ Have passed the written Examination for Professional Practice in Psychology and passed an oral examination conducted by the Board.
- ◆ Have submitted a complete application no later than 90 days prior to the examination date, accompanied by the appropriate fee and all supporting documents.

PSYCHOLOGISTS LICENSED BY EXPERIENCE (SENIOR)

- ◆ Have been licensed to practice psychology in a United States or Canadian jurisdiction for at least 20 years if the license required a doctoral degree.
- ◆ Have had at least 10 years of clinical experience in the last 15 years prior to filing the application documented on the Board's form.
- ◆ Have not been subject to any disciplinary action during the entire period of licensure.
- ◆ Have passed an oral examination conducted by the Montana Board.
- ◆ Submit a complete application no later than 90 days prior to the examination date, accompanied by the appropriate fee and all supporting documents.

FOREIGN GRADUATES

- ◆ Foreign-trained applicants shall fulfill all requirements for licensure in this chapter.
- ◆ To establish documentation of a doctoral degree in clinical psychology equivalent to those of an (American Psychological Association) APA - approved program, applicants shall have their educational credentials evaluated by the National Register of Health Service Providers in Psychology, Inc. and approved by the Board.
www.nationalregister.org The fee required for this service shall be paid by the applicant.
- ◆ Shall provide proof of fluency in the English language per ARM 24.189.625.

FEES **\$175.00** **Make check or money order payable to the Board of Psychologists**
All fees are non-refundable

PHOTOS Please place recent photograph on final page of the application. Passport size is preferable.

DOCUMENTS The following documents must be submitted to the Board office in order to complete your license application. The completed application and any documents submitted by you; and also due by the deadline date specified on the website are the 5 reference forms which this office requests by mail upon receipt of your application.

LICENSURE BY EXAM

- ◆ Certified transcripts of all graduate work sent directly from the school to the Board office.
- ◆ Three (3) written examples of work done within the last 2 years meeting requirements of ARM 24.189.610.
- ◆ Five (5) reference forms will be sent directly from and must be returned directly to this office (you supply the names and addresses on the application).
- ◆ Documentation of 2 years of supervision, one year postdoctoral, **completed at the time of application.**
- ◆ If your degree is not from an APA-approved **clinical** psychology program, catalog descriptions of your program and courses from the official college catalog(s) at the time you were enrolled. In addition, the "Educational Record in Psychology Form" must be submitted as part of your application. It is located after the application (FORM 2) on the website. Department approved syllabi for all courses listed on FORM 2 must be included along with the coursework descriptions.
- ◆ Exam Candidates who obtained the postdoctoral year of supervision in Montana shall submit the supervision log at the time of application.
- ◆ National Practitioner Data Bank (NPDB) Self-Query. This form can be obtained by calling NPDB at 800-767-6732 or visit www.npdb-hipdb.com on the Internet. This form must be mailed directly to the address indicated in the instructions. The results will come to you; upon receipt, please forward them to the Board office.

LICENSEES FROM OTHER STATES/PROVINCES

- ◆ Certified transcripts of all graduate work sent directly from the school to the Board office.
- ◆ Three (3) written examples of work done within the last 2 years meeting requirements of ARM 24.189.610.
- ◆ Five (5) reference forms will be sent directly from and must be returned directly to this office (you supply names and addresses on the application).
- ◆ Documentation of 2 years of supervision, one year postdoctoral, **completed at the time of application.**
- ◆ If your degree is not from an APA-approved **clinical** psychology program, catalog descriptions of your program and courses from the official college catalog(s) at the time you were enrolled. In addition, the "Educational Record in Psychology Form" must be submitted as part of your application. It is located after the application (FORM 2) on the website. Department approved syllabi for all courses listed on FORM 2 must be included along with the coursework descriptions.
- ◆ Candidates for licensure from other states must have their written national exam scores reported directly to Montana from the Association of State and Provincial Psychology Boards (ASPPB) at www.asppb.net or 1-334-832-4580.
- ◆ National Practitioner Data Bank (NPDB) self-query. This form can be obtained by calling NPDB at 800-767-6732 or visit <http://www.npdb-hipdb.com/> on the Internet. The results will come to you; upon receipt, please forward them to the Board office.
- ◆ Candidates must contact other states/provinces of licensure (past and current) and request letters of verification of license status. **The candidate will be responsible for paying any fees that are required.**

PSYCHOLOGIST BY EXPERIENCE (SENIOR)

- ◆ Certified transcripts of all graduate work sent directly from the school to the Board office.
- ◆ Three (3) written examples of work done within the last 2 years meeting requirements of ARM 24.189.610.
- ◆ Five (5) reference forms will be sent directly from and must be returned directly to this office (you supply names and addresses on the application).
- ◆ Candidates must contact other states/provinces of licensure (past and current) and request letters of verification of license status. **The candidates will be responsible for contacting these jurisdictions and paying any fees that are required.**
- ◆ National Practitioner Data Bank (NPDB) self-query. This form can be obtained by calling NPDB at 800-767-6732 or visit <http://www.npdb-hipdb.com/> on the Internet. The results will come to you; upon receipt, please forward them to the Board office.
- ◆ Documentation of at least 10 years of clinical experience in the last 15 years prior to filing the application. This verification shall be on a form prescribed by the Board and shall consist of an employer's statement; or verification by two licensed psychologists; or a combination of both. Contact the Board office for a copy of this form.

FOREIGN GRADUATES

- ◆ Must supply documents required for either licensure by examination or licensure from other states as listed above.
- ◆ Evaluation of foreign education by the National Register of Health Service Providers in Psychology, Inc. www.nationalregister.org to establish documentation of a doctoral degree in clinical psychology equivalent to those of an (American Psychological Association) APA-approved program. The fee required for this service shall be paid by the applicant.
- ◆ Shall provide proof of fluency in the English language per ARM 24.189.625.

NOTE: ALL DOCUMENTS NOT IN ENGLISH MUST BE ACCOMPANIED BY CERTIFIED TRANSLATIONS

37-17-302. Qualifications. The board shall license as a psychologist any person who pays the prescribed fee, passes the prescribed examination, and submits evidence that the person:

(1) is 18 years of age or older;

(2) is of good moral character;

(3) (a) has received a doctoral degree in clinical psychology from an accredited college or university having an appropriate graduate program approved by the American psychological association;

(b) has received a doctoral degree in psychology from an accredited college or university not approved by the American psychological association and has successfully completed a formal graduate retraining program in clinical psychology approved by the American psychological association; or

(c) has received a doctoral degree in psychology from an accredited college or university and has completed a course of studies that meets minimum standards specified in rules by the board; and

(4) has completed at the time of application a minimum of 2 years of supervised experience in the practice of psychology. One year of this experience must be postdoctoral but may not include more than 6 months of supervised research, teaching, or a combination of both.

History: En. Sec. 8, Ch. 73, L. 1971; amd. Sec. 25, Ch. 94, L. 1973; amd. Sec. 317, Ch. 350, L. 1974; R.C.M. 1947, 66-3208(1), (2); amd. Sec. 3, Ch. 347, L. 1987; amd. Sec. 4, Ch. 671, L. 1991; amd. Sec. 1, Ch. 362, L. 1995; amd. Sec. 57, Ch. 467, L. 2005.

Ongoing questions

- Are there any restrictions on faith-based care?

Several of the licensure statutes (licensed clinical social workers, professional counselors, and addiction counselors) include language that exempts “pastoral counselors” from licensure for certain activities if those people do not hold themselves out to be that type of provider. See sections 37-22-305(3)(a), 37-23-201(4)(a), and 37-35-201(2)(a) for those exceptions. Because insurer or Medicaid requirements might affect a person’s ability to select a provider or care, further research on this topic is needed and will be provided in a future EAQ document.

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