

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.189.401 fee schedule,) PROPOSED AMENDMENT
24.189.601 psychologist application)
procedures, 24.189.610 examination,)
24.189.633 temporary permit, and)
24.189.910 behavior analyst)
experience and supervision)

TO: All Concerned Persons

1. On August 5, 2020, at 9:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment of the above-stated rules. Because there currently exists a state of emergency in Montana due to the public health crisis caused by the coronavirus, there will be no in-person hearing. Interested parties may access the remote conferencing platform by dialing 406-444-4647 (local) or 1-833-681-5958 (toll free) and entering meeting ID 2919016 when directed to do so.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Psychologists no later than 5:00 p.m., on July 29, 2020, to advise us of the nature of the accommodation that you need. Please contact Sharon Peterson, Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibspsy@mt.gov (board's e-mail).

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

24.189.401 FEE SCHEDULE (1) through (1)(b) remain the same.
~~(c) Oral examination fee~~ 100
(d) through (k) remain the same but are renumbered (c) through (j).
(2) remains the same.

AUTH: 37-1-134, 37-17-202, 37-17-406, MCA
IMP: 37-1-134, 37-1-141, 37-17-302, 37-17-403, 37-17-406, MCA

REASON: The board is amending this rule to remove the fee for the Montana oral psychiatrist licensure exam to align with proposed changes in this notice. See REASON for ARM 24.189.610. The board estimates this fee elimination will affect 16 applicants and will reduce annual board revenue by approximately \$1600.

24.189.601 PSYCHOLOGIST APPLICATION PROCEDURES

(1) Applications for licensure of a psychologist, when properly filled out by the applicant, must provide the board with that information necessary to ascertain whether or not the applicant meets the requirements of the law as to education and experience. ~~Completed application forms must reflect satisfactorily the requirements of Montana law.~~

(a) Persons seeking licensure must submit a completed application on forms prescribed by the department along with the application fee.

~~(b) Completed applications shall be delivered to the department, accompanied by the application fee, at least 90 days in advance of the examination dates. The examination dates can be found on the board's web site.~~

(c) remains the same but is renumbered (b).

~~(d) (c) An application applicant must resolve deficiencies be completed for final board review no more than 18 months after the board department receives it the application or it will expire and a new application and fee will be required. If a temporary practice permit is issued, the application will not expire until the latter of:~~

(i) the temporary practice permit's expiration date; or

~~(ii) the third failed attempt at the oral examination; or~~

(iii) remains the same but is renumbered (ii).

(e) remains the same but is renumbered (d).

(2) through (4) remain the same.

~~(5) The applicant will be notified in writing as to the time and place of the oral examination once the completed application is received and the board has approved the work samples. It shall be the duty of the applicant to inform the department when it is not feasible to appear at the time and place stated for the examination.~~

~~(a) If a candidate is scheduled for the examination a second time and does not appear without legitimate excused reasons, the applicant may lose eligibility for the examination.~~

~~(b) (5) When the application file is complete and acceptable, the board shall notify an applicant who is licensed in another state or province, and who is now a resident of Montana, that the applicant is allowed to practice as a psychologist pursuant to 37-17-104, MCA, pending satisfactory completion of the next board oral exam for which the applicant is eligible.~~

AUTH: 37-1-131, 37-17-202, MCA

IMP: 37-1-131, 37-17-302, MCA

REASON: See REASON for ARM 24.189.610 regarding removal of the oral examination requirements. Following staff review and recommendations, the board is also amending this rule to align with and further facilitate the department's standardized application and licensure procedures that apply to all licensing boards.

24.189.610 WORK SAMPLES – EXAMINATION ~~(1) In addition to an approved license application, each applicant for licensure shall submit three work samples, at least two of which must be complete psychological evaluations, all from work performed with respect to three different individuals within two years of the~~

application date. Collectively, these are referred to as work samples in these rules.

~~(a) Each of the two psychological evaluations must include a demonstration of competence in:~~

~~(i) the integration and interpretation of:~~

~~(A) history taking utilizing a clinical interview conducted by the applicant;~~

~~(B) intelligence testing utilizing comprehensive current norms; and~~

~~(C) personality testing utilizing at least one objective personality inventory that is widely recognized and used in the field/practice of psychology, has strong empirical foundations, and assesses global personality and psychological functioning;~~

~~(ii) the formulation of appropriate diagnoses using the current version of the Diagnostic and Statistical Manual of Mental Disorders (DSM); and~~

~~(iii) making appropriate recommendations.~~

~~(b) Work samples do not include newspaper or other similar articles or publications. Tests utilized must be those widely recognized and respected in the practice of psychology. All identifying information must be removed, as specified on the application form, from work samples submitted to the board. Questions regarding the work samples will be included in the oral examination and candidates may be requested to present the raw data upon which their work samples were based.~~

~~(2) (1) Examinations for licensure will be are a computerized national examination and an oral examination a computerized Montana jurisdictional training course with evaluative aspects. These will be conducted by the board or its duly constituted representative(s). The computerized examination developed by the national licensing program, with the support of the Association of State and Provincial Psychology Boards, may be given.~~

~~(a) The acceptable level of performance on the computerized national examination shall be is a scaled score of 500.~~

~~(b) The acceptable level of performance on the national written examination previously administered by the board shall be 70 percent.~~

~~(c) The computerized national examination must be passed before an applicant may be made eligible to take the oral examination.~~

~~(3) The applicant will be notified of the oral examination time schedule at least two weeks in advance. This examination schedule will establish time(s), place(s), the amount of the examination fee, and other pertinent information and/or instructions.~~

~~(4) The board shall determine the subject matter and scope of specialized psychological areas and techniques for the oral examination. Oral examinations shall include such matters as professional ethics for the purpose of determining the applicant's competence to conduct the applicant in a professional manner and to probe the applicant's knowledge and judgement. The examination shall be scored on a five point scale: 5 (excellent), 4 (good), 3 (fair), 2 (poor), 1 (very poor). A mean score of three derived from the ratings of all examiners is required for passing. Candidates must have a mean of three, based on total points, divided by the number of scales evaluated. Additionally, they cannot have a mean of two or less on any one scale they are evaluated on. Oral examinations for candidates shall include, but not be limited to, questions in the following areas:~~

- (a) psychopathology and diagnosis;
- (b) assessment;
- (c) ethics;
- (d) Montana mental health law;
- (e) psychotherapy;
- (f) previously submitted work samples.

(5) Applicants shall be informed of the results of the examinations by the department. All applicants who pass both examinations shall be considered licensed if they have met all other requirements. The department shall transmit the board's decision in writing to applicants and, when appropriate, inform them of their right to appeal. Reasons for actions shall be specified. The communication shall be sent to the last known address of the applicant by mail.

~~(6) (2) Applicants may take the Montana training course as many times as necessary to pass. Applicants who fail the computerized examination will be required to retake the computerized examination. Applicants failing the oral examination once will only be required to retake the oral examination. Applicants who fail the computerized or oral examinations twice shall, in addition to being retested, national examination two or more times must file in advance a plan with the board that must be preapproved by the board and must include a time period for securing to secure further professional training and experience before retaking the exam. The license applicant is then obligated to must complete the preapproved approved plan prior to being authorized to take before retaking the examination or to being licensed.~~

AUTH: 37-1-131, 37-17-202, MCA

IMP: 37-1-131, 37-17-302, MCA

REASON: The board determined it is reasonably necessary to amend this rule to no longer require an oral exam for Montana licensure. Over time, other states have stopped requiring oral exams. Further, the 2019 Montana Legislature amended 37-1-304, MCA, so that boards "shall" issue licenses to those out-of-state applicants already licensed in states with standards substantially equivalent to Montana's. These changes prompted staff and the board to review and compare the board's licensing requirements with other states' standards. The board concluded the oral exam constitutes an unreasonable and unnecessary barrier to licensure, particularly for applicants licensed in other states.

The board is proposing to replace the oral exam with a Montana-specific training course to ensure applicants are familiar with state-specific statutes and administrative rules. With the ultimate goal to ensure that licensees are knowledgeable of Montana's specific statutes and rules, the board will allow applicants to take the training course as many times as needed to pass.

24.189.633 TEMPORARY PERMIT (1) through (8) remain the same.

(9) A temporary permit is valid until the date of the first oral examination examinations for which the person is eligible following issuance of the permit.

~~(10) The first oral examination for which the person is eligible is the next oral examination occurring at least 90 days following the date the person submits the~~

~~required work samples, but not later than the second oral examination test date following the date the temporary permit is issued. Except, however, that on a case-by-case basis, and upon good cause, the first oral examination for which the person is eligible may be set by the board to allow the applicant additional time to obtain the required work samples and to continue the supervised practice of psychology. If the time is extended, it shall be extended to the date of what will then constitute the first oral examination for which the person is eligible.~~

~~(11) (10) A temporary practice permit holder must use reasonable diligence to obtain the necessary work samples for purposes of gaining licensure. Regardless of whether work samples are submitted to or approved by the board, a A temporary practice permit shall terminate no later than two years following issuance.~~

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

IMP: 37-1-131, 37-1-305, MCA

REASON: See REASON for ARM 24.189.610.

24.189.910 BEHAVIOR ANALYST EXPERIENCE AND SUPERVISION

(1) and (2) remain the same.

(3) A behavior analyst may not supervise:

(a) more than ~~one~~ three student ~~intern~~ interns if the analyst is also supervising a behavior ~~technician~~ technicians or an assistant behavior analyst analysts; or

(b) more than seven student interns if the analyst is not ~~also~~ supervising a behavior ~~technician~~ technicians or an assistant behavior analyst analysts.

(4) through (13) remain the same.

AUTH: 37-17-406, MCA

IMP: 37-17-403, 37-17-405, 37-17-406, MCA

REASON: In response to requests from behavior analyst licensees, the board is amending this rule to increase the number of student interns a behavior analyst can supervise. Following licensee feedback that student interns need more opportunities to obtain supervised experience in Montana, the board concluded that behavior analysts are competent to supervise more people than currently allowed and it is reasonably necessary to amend this rule.

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibspsy@mt.gov, and must be received no later than 5:00 p.m., August 7, 2020.

5. An electronic copy of this notice of public hearing is available at www.psy.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system

maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibspsy@mt.gov; or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.189.401, 24.189.601, 24.189.610, 24.189.633, and 24.189.910 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Psychologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2375; facsimile (406) 841-2305; or to dlibspsy@mt.gov.

9. Sharon Peterson, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PSYCHOLOGISTS
LORETTA BOLYARD, Ph.D.
CHAIRPERSON

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

/s/ BRENDA NORDLUND
Brenda Nordlund, Acting Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State June 30, 2020.