

BOARD OF PSYCHOLOGISTS RULES

AS OF SEPTEMBER 30, 2021

This version of the Administrative Rules of Montana is provided as a tool for board members and department staff. In case of inconsistencies, the rule text in the Montana Administrative Register is the official rule text and will prevail.

DEPARTMENT OF LABOR AND INDUSTRY

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Subchapter 1

Organizational Rule

24.189.101 BOARD ORGANIZATION (1) The board of psychologists hereby adopts and incorporates the organizational rules of the department of labor and industry as listed in chapter 1 of this title. (History: 37-17-202, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; AMD, Eff. 1/3/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2004 MAR p. 2282.)

Subchapter 2

Procedural Rules

24.189.201 PROCEDURAL RULES (1) The board of psychologists hereby adopts and incorporates the procedural rules of the department of labor and industry as listed in chapter 2 of this title. (History: 37-17-202, MCA; IMP, 2-4-201, MCA; Eff. 12/31/72; AMD, Eff. 1/3/75; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; TRANS, from Commerce, 2004 MAR p. 2282.)

24.189.202 PUBLIC PARTICIPATION RULES (1) The board of psychologists hereby adopts and incorporates by this reference the public participation rules of the department of commerce as listed in chapter 2 of Title 8. (History: 2-3-103, MCA; IMP, 2-3-103, MCA; NEW, 1988 MAR p. 570, Eff. 3/25/88; TRANS, from Commerce, 2004 MAR p. 2282.)

Rules 24.189.203 and 24.189.204 reserved

24.189.205 BOARD MEETINGS (1) Officers of the board shall be elected by board members at the regular annual meeting of the board for a year until their successors are elected.

(2) Officers shall consist of a chairman, vice-chairman and secretary.

(3) The chairman shall ordinarily call meetings of the board, preside at meetings and perform such other duties as may be specifically assigned him by the board. In the absence or disability of the chairman, the vice-chairman shall conduct meetings and perform the other duties of the chairman as necessary.

(4) Meetings shall ordinarily be called by the chairman but any two members of the board may also call a meeting.

(5) The department, on the advice of the board, will prepare and mail an agenda to board members in advance.

(6) Special meetings may be called at any time deemed necessary by the board when members agree. Meetings may be by telephone and balloting by mail or telephone. (History: 37-17-202, MCA; IMP, 37-17-201, 37-17-202, MCA; Eff. 12/31/72; AMD, Eff. 5/6/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1988 MAR p. 570, Eff. 3/25/88; AMD, 1997 MAR p. 538, Eff. 3/25/97; TRANS, from Commerce, 2004 MAR p. 2282.)

Subchapter 3

Definitions

24.189.301 DEFINITIONS (1) "APA" means the American Psychological Association.

(2) "Asynchronous store-and-forward" means the transmission, via store-and-forward technology as defined in 33-22-138, MCA, of a patient's medical information from an originating site to a health care provider at a distant site without the presence of the patient.

(3) "BACB" means the Behavior Analyst Certification Board, a nonprofit corporation whose credentialing programs for behavior analysts and assistant behavior analysts are accredited by the National Commission for Certifying Agencies.

(4) "Behavior technician" means a supervisee primarily responsible for the direct implementation of behavior analytic services. The behavior technician does not design intervention or assessment plans.

(5) "Defined professional relationship" means a relationship in which a licensee or license applicant provides diagnostic, assessment and/or therapeutic services to a client. A defined professional relationship shall be initially established in a context where services are provided:

(a) in person and face-to-face; or
(b) transmitted via electronic or related methods. If provided under this subsection, the context must also be:

- (i) two-way;
- (ii) interactive;
- (iii) real-time;
- (iv) simultaneous;
- (v) continuous; and
- (vi) providing for both audio and visual interaction.

(6) "Distant site" means a site where a health care provider who provides health care services is located while providing these services via a telecommunications system.

(7) "Health care provider" means health care provider as defined in 33-22-138, MCA.

(8) "In-person encounter" means that a licensee and the patient are in the physical presence of each other during the licensee-patient encounter.

(9) "Licensee" means the holder of a current license issued under 37-17-302 or 37-17-403, MCA.

(10) "Licensee-patient relationship" means that:

(a) the licensee agrees to undertake diagnosis and/or treatment of a person seeking services from the licensee; and
(b) the person agrees to be diagnosed and/or treated by the licensee whether or not there has been an in-person encounter between the licensee and the person.

- (11) "NCCA" means the National Commission for Certifying Agencies.
- (12) "One year's academic residency" means continuous, full-time, active engagement by the student in the elements of the training program while the student is physically present during one academic year at the educational institution granting the doctoral degree.
 - (a) Critical components of the residency must include:
 - (i) adequate opportunity for the resident to:
 - (A) concentrate on required coursework;
 - (B) obtain professional training and scholarship;
 - (C) work closely with professors, supervisors, and other students; and
 - (D) acquire the habits, skills, knowledge, and insights necessary for attaining a doctoral degree in psychology; and
 - (ii) adequate time for faculty, training staff, supervisors, and administrators to adequately assess all elements of the student's competence including, at a minimum:
 - (A) emotional stability and well-being;
 - (B) interpersonal competence;
 - (C) professional development; and
 - (D) personal fitness to practice psychology.
 - (b) The year of residency that uses face-to-face contact for shorter durations throughout the year or that uses video teleconferencing or other electronic means is not acceptable.
 - (c) The year of acceptable academic residency experience shall consist of two semesters or three quarters with continuous experience on campus, in no less than three month increments, and be accrued in no more than 18 months.
 - (d) Full-time experience shall consist of at least 30 hours on campus per week, but no more than 45 hours per week each contiguous week of the semester or quarter. The board will consider situations that are not full-time on a case-by-case basis.
 - (e) Active engagement in the elements of the training program shall be fully documented by a log of residency activities on a form prescribed by the board and signed by the student's academic advisor. Such residency activities must:
 - (i) include both faculty-to-student and student-to-student face-to-face (personal) interaction;
 - (ii) be conducted by the psychology faculty of the institution at least 90 percent of the time;
 - (iii) be fully documented by the institution; and
 - (iv) relate substantially to the program and course content.
 - (f) An internship requirement cannot be used to fulfill the academic year requirements of the residency.
 - (g) Video conferencing will not be allowed to satisfy the requirements of the academic residency.
 - (h) The institution must clearly document its assessment and evaluation of the applicant's performance.

(13) "Originating site" means a site where a patient is located at the time health care services are provided via a telecommunications system or where an asynchronous store-and-forward service originates.

(14) "Psychological resident" means a supervisee following board approval of a supervised postdoctoral supervision proposal. This title shall be:

- (a) used only in conjunction with activities and services of the postdoctoral supervised training to fulfill the experience requirements;
- (b) used for a maximum of five years; and
- (c) identified for clients, third-party payers, and other entities.

(15) "Synchronous interaction" means a real-time interaction between a patient located at an originating site and a health care provider located at a distant site.

(16) "Telehealth" means the mode of delivering health care services via electronic information and communication technologies while a patient is at an originating site and a licensee is at a distant site, with or without an intervening health care provider. Telehealth includes synchronous interactions and asynchronous store-and-forward transfers delivered over a secure connection that complies with the requirements of the Health Insurance Portability and Accountability Act of 1996, 42 U.S.C. 1320d, et seq. The term does not mean an audio-only telephone conversation, an e-mail or instant messaging conversation, or a message sent by facsimile transmission. (History: 37-1-131, 37-17-202, 37-17-406, MCA; IMP, 37-1-131, 37-17-101, 37-17-302, 37-17-402, 37-17-403, 37-17-404, 37-17-406, MCA; NEW, 2003 MAR p. 307, Eff. 2/28/03; AMD, 2004 MAR p. 1474, Eff. 7/2/04; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2007 MAR p. 348, Eff. 3/23/07; AMD, 2010 MAR p. 1508, Eff. 6/25/10; AMD, 2017 MAR p. 1656, Eff. 9/23/17; AMD, 2020 MAR p. 45, Eff. 1/18/20.)

Subchapter 4

General Provisions

24.189.401 FEE SCHEDULE (1) The department will collect the following fees, none of which are refundable:

(a) Psychologist application fee	\$175
(b) Psychologist active license renewal fee	600
(c) Psychologist supervision proposal approval	25
(d) Psychologist temporary permit application fee	100
(e) Behavior analyst application fee	600
(f) Behavior analyst initial supervision fee, per behavior technician, student intern, or assistant behavior analyst supervised	25
(g) Assistant behavior analyst application fee	250
(h) Behavior analyst active license renewal fee	600
(i) Assistant behavior analyst active license renewal fee	200
(2) Additional standardized fees are specified in ARM 24.101.403. (History: 37-1-134, 37-17-202, 37-17-406, MCA; <u>IMP</u> , 37-1-134, 37-1-141, 37-17-302, 37-17-403, 37-17-406, MCA; <u>NEW</u> , 1982 MAR p. 484, Eff. 3/12/82; <u>AMD</u> , 1983 MAR p. 1816, Eff. 12/16/83; <u>AMD</u> , 1988 MAR p. 570, Eff. 3/25/88; <u>AMD</u> , 1993 MAR p. 2232, Eff. 10/1/93; <u>AMD</u> , 1995 MAR p. 354, Eff. 3/17/95; <u>AMD</u> , 1995 MAR p. 2143, Eff. 10/13/95; <u>AMD</u> , 1999 MAR p. 1125, Eff. 5/21/99; <u>AMD</u> , 2001 MAR p. 1742, Eff. 9/7/01; <u>AMD</u> , 2001 MAR p. 2154, Eff. 10/26/01; <u>AMD</u> , 2003 MAR p. 307, Eff. 2/28/03; <u>TRANS</u> , from Commerce, 2004 MAR p. 2282; <u>AMD</u> , 2006 MAR p. 1583, Eff. 7/1/06; <u>AMD</u> , 2007 MAR p. 348, Eff. 3/23/07; <u>AMD</u> , 2007 MAR p. 1337, Eff. 9/7/07; <u>AMD</u> , 2012 MAR p. 1041, Eff. 5/25/12; <u>AMD</u> , 2014 MAR p. 2459, Eff. 10/10/14; <u>AMD</u> , 2016 MAR p. 2337, Eff. 12/10/16; <u>AMD</u> , 2017 MAR p. 1656, Eff. 9/23/17; <u>AMD</u> , 2020 MAR p. 2081, Eff. 11/7/20; <u>AMD</u> , 2021 MAR p. 1058, Eff. 8/28/21.)	

24.189.402 FEE ABATEMENT (1) The Board of Psychologists adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301. (History: 37-1-131, 37-17-202, MCA; IMP, 17-2-302, 17-2-303, 37-1-134, MCA; NEW, 2005 MAR p. 2464, Eff. 12/9/05.)

Rule 24.189.403 reserved

24.189.404 PREPARATION OF LICENSES (REPEALED) (History: 37-17-202, MCA; IMP, 37-17-305, MCA; Eff. 12/31/72; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1988 MAR p. 570, Eff. 3/25/88; TRANS, from Commerce, 2004 MAR p. 2282; REP, 2016 MAR p. 2337, Eff. 12/10/16.)

Rules 24.189.405 and 24.189.406 reserved

24.189.407 RENEWALS (REPEALED) (History: 37-1-131, 37-1-141, 37-17-202, MCA; IMP, 37-1-141, MCA; Eff. 12/31/72; AMD, Eff. 5/6/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1988 MAR p. 570, Eff. 3/25/88; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2006 MAR p. 1583, Eff. 7/1/06; REP, 2016 MAR p. 2337, Eff. 12/10/16.)

Rules 24.189.408 through 24.189.410 reserved

24.189.411 USE OF TITLE (1) Persons who are not licensed under Title 37, chapter 17, MCA, may use certain titles in representing themselves to the public, as long as the titles clearly delineate the nature and the level of training. Such persons may use titles such as "psychological trainee," "psychological intern," and "psychological assistant," provided that such persons perform their activities under the direct supervision and responsibility of a licensed psychologist. This requirement applies to the following individuals only:

(a) matriculated graduate students in psychology whose activities constitute a part of the course of study for a graduate degree in psychology at an institution of higher education; or

(b) individuals pursuing postdoctoral training or experience in psychology, including those seeking to fulfill the requirements for licensure, but who have not received board approval of the postdoctoral supervision setting.

(2) Individuals whose postdoctoral setting has been approved by the board shall use the title "psychological resident."

(3) Individuals who have been certified as school psychologists by the Office of Public Instruction may use the titles "school psychologist" or "certified school psychologist." Use of these titles shall restrict practice to employment within those settings under the purview of the State Board of Education. (History: 37-1-131, 37-17-202, MCA; IMP, 37-17-104, 37-17-301, MCA; NEW, 1988 MAR p. 570, Eff. 3/25/88; AMD, 1997 MAR p. 637, Eff. 3/25/97; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2007 MAR p. 348, Eff. 3/23/07.)

Rules 24.189.412 and 24.189.413 reserved

24.189.414 NONRESIDENT PSYCHOLOGICAL SERVICES

(1) Nonresident consulting psychological services defined in 37-17-104, MCA, may be rendered to individuals, groups, corporations, or the public for compensation or fee.

(2) To provide such services and engage in such activities in the state of Montana, a psychologist duly licensed in the state of his residence shall file with the board a completed and notarized form provided by the board, stating the nature, location and duration of said services that exceed ten days within any calendar year. Notification shall be provided to the board each year nonresident psychological services are rendered.

(3) A letter verifying termination of said services shall be filed with the board at the time of termination. (History: 37-1-131, 37-17-202, MCA; IMP, 37-17-104, MCA; Eff. 12/31/72; AMD, Eff. 5/6/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1988 MAR p. 570, Eff. 3/25/88; AMD, 2001 MAR p. 1742, Eff. 9/7/01; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2012 MAR p. 1041, Eff. 5/25/12.)

24.189.415 REQUIREMENTS FOR LICENSEES PROVIDING
TELEHEALTH SERVICES (1) A licensee who provides psychology or behavior analysis services via telehealth shall:

- (a) maintain competence with the technologies utilized, including understanding and adequately addressing the actual and potential impact of those technologies on patients, supervisees, or other professionals;
- (b) maintain compliance with Title 37, chapter 17, MCA, ARM Title 24, chapter 189, and all other applicable federal, state, and local laws;
- (c) adhere to the same standards of care required for in-person encounters;
- (d) at the onset of the delivery of care via telehealth, identify appropriate emergency response contacts local to the patient so that those contacts shall be readily accessible in the event of an emergency;
- (e) protect and maintain the confidentiality of data and information; and
- (f) dispose of data and information only in a manner that protects the data and information from unauthorized access.

(2) Licensees shall not commence a licensee-patient relationship via telehealth without an initial meeting for the licensee and patient who prospectively utilize telehealth. The licensee shall, at that initial meeting with the patient:

- (a) verify the identity of the patient;
- (b) make available to the patient verification of the licensee's identity and credentials;
- (c) obtain alternative means of contacting the patient other than electronically;
- (d) provide to the patient alternative means of contacting the licensee other than electronically;
- (e) document if the patient has the necessary knowledge and skills to benefit from the type of telehealth to be provided by the licensee; and

(f) inform the patient in writing about and obtain the patient's informed written consent regarding:

- (i) the limitations of using technology in the provision of services;
- (ii) potential risk to confidentiality of information due to technology in the provision of services;
- (iii) potential risks of disruption in the use of telehealth technology;
- (iv) when and how the licensee will respond to routine electronic messages;
- (v) in what circumstances the licensee will use alternative communications for emergency purposes;
- (vi) who else may have access to patient communications with the licensee;
- (vii) how communications can be directed to a specific licensee;
- (viii) how the licensee stores electronic communications from the patient; and
- (ix) that the licensee or patient may elect to discontinue the provision of services through telehealth at any time.

(3) A licensee-patient relationship may be established for purposes of telehealth:

- (a) by an in-person interview and examination when the standard of care requires an in-person encounter;
- (b) by consultation with another licensee or health care provider who has a documented relationship with the patient and who agrees to participate in, or supervise, the patient's care; or
- (c) through telehealth if the standard of care does not require an in-person encounter.

(4) A person providing services via telehealth to a person physically located in Montana while services are provided shall be licensed by the board.

(5) A person providing services via telehealth from a physical location in Montana shall be licensed by the board and may be subject to licensure requirements in other states where the services are received by the patient.

(History: 37-1-131, 37-17-202, 37-17-406, MCA; IMP, 37-1-131, 37-17-102, 37-17-402, MCA; NEW, 2020 MAR p. 45, Eff. 1/18/20.)

Subchapter 5 reserved

Subchapter 6

Psychologist Licensure

24.189.601 PSYCHOLOGIST APPLICATION PROCEDURES (REPEALED)

(History: 37-1-131, 37-17-202, MCA; IMP, 37-1-131, 37-17-302, MCA; Eff. 12/31/72; AMD, Eff. 5/6/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1988 MAR p. 570, Eff. 3/25/88; AMD, 1993 MAR p. 2232, Eff. 10/1/93; AMD, 1998 MAR p. 927, Eff. 4/17/98; AMD, 2001 MAR p. 1742, Eff. 9/7/01; AMD, 2003 MAR p. 307, Eff. 2/28/03; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2005 MAR p. 1294, Eff. 7/15/05; AMD, 2012 MAR p. 1041, Eff. 5/25/12; AMD, 2014 MAR p. 2459, Eff. 10/10/14; AMD, 2016 MAR p. 2337, Eff. 12/10/16; AMD, 2017 MAR p. 1654, Eff. 9/23/17; AMD, 2017 MAR p. 1656, Eff. 9/23/17; AMD, 2018 MAR p. 844, Eff. 4/28/18; AMD, 2020 MAR p. 2081, Eff. 11/7/20; REP, 2021 MAR p. 1058, Eff. 8/28/21.)

24.189.602 EXEMPTIONS (1) To be exempt from licensure under 37-17-104(1)(b), MCA, "within the confines of the agency or institution" means that the person is providing activities and services limited to the purposes and used only within the confines of the organization. For example, a person may not perform activities and services that, at the time they are performed, include evaluations, assessments, or other activities and services that would produce a report or other record that is intended or anticipated to be admitted into a court proceeding to determine the person's competency or fitness in relation to the person's rights or privileges outside the organization.

(2) For the limited services described in 37-17-104(1)(d), MCA, to be exempt as "consulting" services, including but not limited to services provided via electronic means on behalf of clients located within the state of Montana, the person claiming the exemption must not be a resident of Montana, must be licensed to provide the services in another state or Canadian province, and provide all such activities and services either:

(a) in association with, at the direction of, or upon the recommendation of a licensed Montana psychologist who bears primary responsibility for those activities and services; or

(b) in fulfilling a strictly forensic role as an expert witness and not as a treating psychologist.

(3) To be exempt under 37-17-104(1)(e), MCA, one must have submitted a completed application to the board within 12 months of becoming a Montana resident. Whether someone is a resident of Montana is a question determined by considering all relevant facts, including but not limited to the location of the person's primary domicile, whether the person has a Montana driver's license, and whether the person is registered to vote or has voted in Montana.

(4) "Qualified" members of other professions under 37-17-104(1)(a) and (2), MCA, for purposes of administering tests and making evaluations or assessments means only those individuals who are licensed by:

(a) the Board of Medical Examiners or the Board of Nursing and whose scope of practice specific to their license includes the administering of psychological tests and the making of evaluations or assessments; or

(b) the Board of Behavioral Health and who meet the qualifications set by that board in compliance with 37-17-104, MCA. (History: 37-17-202, MCA; IMP, 37-17-104, MCA; NEW, 2014 MAR p. 2459, Eff. 10/10/14; AMD, 2017 MAR p. 1654, Eff. 9/23/17.)

24.189.603 MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a psychologist.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a psychologist. Satisfactory evidence includes:

- (a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements. (History: 37-1-145, MCA; IMP, 37-1-145, MCA; NEW, 2014 MAR p. 2459, Eff. 10/10/14.)

24.189.604 MINIMUM STANDARDS (1) A doctoral degree qualifies under 37-17-302(3)(c), MCA, if it is obtained from a school psychology program that is approved by the American Psychological Association.

(2) A doctoral degree qualifies under 37-17-302(3)(c), MCA, if it is obtained from a counseling psychology program that is approved by the American Psychological Association.

(3) If the applicant is applying based on 37-17-302(3)(c), MCA, the applicant's course of studies must meet the minimum standards specified in this rule. The course of studies must be assessed by a board-approved evaluator. The board shall consider, but is not bound by, the recommendation of the board-approved evaluator when determining whether the course of studies meets minimum standards. A fee may be required by the evaluator and shall be paid by the applicant to the evaluator.

(4) A doctorate degree qualifies under 37-17-302(3)(c), MCA, if it is obtained from a psychology program which meets the following criteria:

(a) Training in professional psychology is doctoral training offered in a regionally accredited institution of higher education.

(b) The program, wherever it may be administratively housed, must be clearly identified and labeled as a psychology program. Such a program must specify in pertinent institutional catalogues and brochures its intent to educate and train professional psychologists.

(c) The psychology program must stand as a recognizable, coherent organizational entity within the institution.

(d) There must be a clear authority and primary responsibility for the core and specialty areas whether or not the program cuts across administrative lines.

(e) The program must be an organized sequence of study planned by those responsible for the training program to provide an integrated education experience appropriate to the professional practice of psychology.

(f) There must be an identifiable psychology faculty and a psychologist responsible for the program.

(g) The program must have an identifiable body of students who are matriculated in that program for a degree.

(h) The program must include supervised practicum, internship, field or laboratory training appropriate to the practice of psychology.

(i) The curriculum shall encompass a minimum of three academic years of full-time graduate study with a minimum of one year's residency at the educational institution granting the doctoral degree. In addition to instruction in scientific and professional ethics and standards, research design and methodology, statistics and psychometrics, the core program shall require each student to demonstrate competence in each of the following substantive content areas. This typically will be met by including a minimum of three or more graduate semester hours (five or more graduate quarter hours) in each of these four substantive content areas:

(i) Biological bases of behavior: physiological psychology, comparative psychology, neuropsychology, sensation and perception, psychopharmacology.

(ii) Cognitive-affective bases of behavior: learning, thinking, motivation, emotion.

- (iii) Social bases of behavior: social psychology, group processes, organizational and systems theory.
- (iv) Individual differences: personality theory, human development, abnormal psychology.
- (v) In addition, the person's training program must include: adequate training in psychodiagnosis, psychological assessment and intervention procedures. Training must provide skills which encompass several types of assessment and intervention procedures, rather than being restricted to a single type. The applicant must be familiar with major assessment and intervention techniques and their theoretical bases.
 - (A) The training program shall include at least 60 quarter hours or 40 semester hours of formal graduate study in psychology. The achievement in each course shall have been satisfactory and the instruction shall have been provided in the regular graduate psychology program of a regionally accredited degree-granting institution. The number of university extension credits that may be credited toward the requirement for the doctoral degree shall not exceed 15 quarter hours (ten semester hours).
 - (B) Of the 60 quarter hours the doctoral program in psychology shall include at least 45 quarter hours (30 semester hours) of course work clearly designated on the university transcript as a graduate level psychology course, exclusive of practicum and dissertation credits and exclusive of transfer credits. The above 45 quarter-hour credits shall be taken during the period in which the applicant is matriculated in the doctoral program. The doctoral program shall include examination and grading procedures designed to evaluate the degree of mastery of the subject matter by the student.
 - (C) The major emphasis of the doctoral program shall be in applied areas such as clinical psychology, counseling psychology, school psychology or industrial-organizational psychology. The training also must include a set of coordinated practicum, which total at least three terms (two semesters) in the practicum setting.
 - (D) Training programs should provide a variety of faculty (staff) role models and be relatively stable (e.g., continuity of funding and staff).
 - (E) A responsibility which all programs share is to convey to students values of professional ethics and scientific responsibility and integrity. This includes principles of professional ethics with regard to the use of both assessment and intervention techniques and with regard to the confidentiality of interviews and records. Ethical principles such as those pertaining to research with human subjects, extent of obligations to parents and to institutions, and the nature and consequences of the psychologist's concern for human welfare should also be conveyed to students. (History: 37-1-131, 37-17-202, 37-17-302, MCA; IMP, 37-1-131, 37-17-302, MCA; NEW, 1988 MAR p. 570, Eff. 3/25/88; AMD, 1999 MAR p. 211, Eff. 1/29/99; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2007 MAR p. 1337, Eff. 9/7/07; AMD, 2014 MAR p. 2459, Eff. 10/10/14; AMD, 2016 MAR p. 2337, Eff. 12/10/16; AMD, 2017 MAR p. 1654, Eff. 9/23/17; AMD, 2018 MAR p. 844, Eff. 4/28/18.)

Rules 24.189.605 and 24.189.606 reserved

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24.189.607 REQUIRED SUPERVISED EXPERIENCE (1) An applicant applying for licensure under [Chap. 43, L. of 2021] must submit a psychologist application in the form of a completed supervision proposal and pay the supervision proposal approval fee. This license expires at the conclusion of the approved postdoctoral supervision program unless the licensee provides:

- (a) a completed psychologist application;
- (b) the applicable fee;
- (c) proof of completion of the postdoctoral supervision program;
- (d) proof of passage of the board-approved computerized national examination; and
- (e) proof of passage of the computerized Montana jurisdiction training course.

(2) Acceptable supervised experience must involve the practice of psychology and must have been performed competently at a professional level in order to be considered satisfactory in scope and quality. The supervised practice of psychology that occurs without the board's preapproval and outside of the activities and services exempted under 37-17-104, MCA, is the unlicensed practice of psychology, which is a disciplinary matter.

(a) Experience limited to essentially repetitious and routine tasks at the preprofessional level will not be accepted, e.g., administering and scoring structured tests, as in a practicum course, computing statistics, assisting an instructor in psychology courses, or personal therapy. Such experiences are primarily preparatory to the practice of psychology.

(b) Experience of any kind gained prior to the completion of all requirements for the master's degree in psychology or its equivalent shall not be acceptable.

(c) Satisfactory examples of professional experience include tasks that depend upon the application of skills, concepts, and principles made available during the applicant's formal professional education and include:

(i) administering and interpreting psychological tests and providing clients or patients assistance in solving their professional or personal problems for a total of no less than 25 percent of one year (a minimum of 400 hours);

(ii) supervising graduate-level practicum for a total of no more than 25 percent of one year (a maximum of 400 hours); and

(iii) designing original research projects, analyzing and reporting research data, and teaching one or more courses in psychology for a total of no more than 50 percent of one year (a maximum of 800 hours).

(3) Required supervised experience shall include two calendar years (a minimum of 3200 hours) of supervised experience.

(a) One year of experience may be predoctoral, occurring after the master's degree and obtained during an internship in an approved training program for the doctoral degree in psychology. The predoctoral internship must be American Psychology Association (APA) approved or substantially equivalent to an APA internship.

(b) One year of experience (a minimum of 1600 hours) must be postdoctoral. Each year of required supervised experience that occurs over more than 12 consecutive months (e.g., due to medical reasons) will be considered for board approval on a case-by-case basis. Postdoctoral supervised experience may not commence until all doctoral degree requirements are completed and the board has approved the proposed supervision. Completion of doctoral degree requirements may be established by a certified transcript or communication from an appropriate institutional official, such as the registrar or the dean of the graduate school.

(4) An applicant for postdoctoral supervised experience shall obtain from and submit to the board a supervision proposal form. The form must indicate an agreement acceptable to the board between the applicant and the supervisor, and certify the existence of a supervisory relationship as defined in this rule, for a specified period. The board shall notify the applicant in writing of the acceptability of the supervision proposal. Regardless of the terms of any supervision agreement, board-approved supervised experience is subject to the rules and statutes governing the practice of psychology and, except as otherwise permitted under these rules, terminates no later than the date that is two years following the date the supervised experience begins.

(5) The 1600 hours of postdoctoral supervision must:

(a) consist of a minimum of one hour of face-to-face (personal) supervision per week throughout the period of supervision;

(b) be obtained over a period of no more than two calendar years.

Postdoctoral supervised experience may not continue beyond two years, except that the board may review and approve written requests for additional time in which to complete the postdoctoral supervision in situations where personal or professional matters may necessitate an extension;

(c) involve the supervisee providing direct clinical services to clients at least 25 percent of the time; and

(d) occur under the supervision of a licensed psychologist who has:

(i) training and experience at least equivalent to that required by the state of Montana for licensing; and

(ii) experience and competency in the skills and knowledge in which the applicant is engaged.

(A) Teleconferencing which is two-way, interactive, real time, simultaneous, continuous, and provides for both audio and visual interaction may substitute for face-to-face supervision.

(B) Teleconferencing allowing only oral communication via technology may be allowed upon written request and prior board approval, when unusual circumstances so require. Oral teleconference supervision may constitute no more than 25 percent of the total supervision.

(6) When the supervisee is employed on a part-time basis, credit for employment shall be calculated by the calendar month or year according to 1-1-301, MCA, as follows:

(a) the number of hours actually worked per week divided by 40, and the resulting fraction multiplied by the number of calendar months of employment reported. Example: applicant employed from July 1, 1970 through October 31, 1971 on an average of 20 hours per week, total period - 16 months at one-half time. Applicant is credited with eight months of experience.

(7) Individual solo private practice does not qualify as acceptable professional experience. The supervisee must be an employee of the postdoctoral training setting and shall not bill independently for services provided.

(8) An acceptable postdoctoral training setting shall have at least one other board-approved licensed mental health professional, in addition to the supervisor, participating in the training of the supervisee. At least one mental health professional must be on-site when the supervisor is not on-site.

(9) Qualifying supervisors shall provide evidence of:

- (a) licensure for a minimum of three years prior to acting as a supervisor; and
- (b) previous training and/or experience in supervising.

(10) During the postdoctoral supervision period, the supervisor shall:

(a) not be required to work in the same setting as, nor be an actual employee of the organization or institution where the supervisee works;

(b) be available in a timely manner for supervision in the event of an emergency;

(c) be available to the supervisee's clients for emergency consultation and intervention either:

- (i) in person;
- (ii) by oral teleconferencing; or
- (iii) by oral and visual teleconferencing;

(d) determine the adequacy of the supervisee's preparation for the tasks to be performed;

(e) provide the supervisee with a written document specifying the roles, goals, and objectives for both supervisee and supervisor;

(f) develop, along with the supervisee, a written individualized training plan that:

- (i) is consistent with the purpose of the setting;
- (ii) meets the needs of the supervisee; and

(iii) serves as the foundation for the supervisor's quarterly written evaluations of the supervisee. Quarterly evaluations must:

(A) address professional conduct, ethical conduct, psychotherapy skills, evaluation skills, and other conduct, knowledge, and skills applicable to the tasks performed and training received, such as teaching, research, and supervision of students;

(B) be reviewed with the supervisee and signed by both the supervisor and supervisee; and

(C) be maintained for a minimum of five years and available upon board request;

(g) interrupt or terminate the supervisee's activities when necessary to ensure adequate development of skills and the protection of the public;

(h) report to the board any breach in ethical, legal, or professional responsibilities of the supervisee; and

(i) be ethically and legally responsible for all of the professional activities of the supervisee.

(11) During the postdoctoral supervision period, the supervisee shall:

(a) use the title "psychological resident" throughout the period of postdoctoral experience;

(b) maintain a diary or record of supervisory contacts, with all confidential information redacted, and submit it to the board upon completion of the supervision period. The diary must include:

(i) dates of contact;

(ii) sufficient detail to represent clearly the issues and problems discussed; and

(iii) signatures of both the supervisee and supervisor, to indicate the accuracy of the diary;

(c) sign all psychological reports or other professional opinions rendered by the supervisee using the title "psychological resident" and obtain a countersignature of the supervisor or the legally responsible person designated by the organization where such work is done; and

(d) inform clients orally and in writing of the supervised nature of the work and provide the name, address, and telephone number of the supervisor.

(12) In the event the relationship is terminated before the end of the supervisory period, the supervisor shall inform the board in writing of the following:

(a) the effective date of the termination;

(b) the reasons for the termination; and

(c) the nature and effectiveness of the supervisee's response to the supervision.

(13) A supervisor whose primary responsibilities are in another employment position shall not supervise more than three supervisees at any one time.

(14) A supervisor shall not be involved in a dual relationship with a supervisee, which would compromise the supervisory relationship, e.g., related by marriage, immediate family, business partnership, employee of the supervisee, or former client-professional relationship. If the supervisee pays the supervisor for the postdoctoral supervision, the supervisor shall pay particular attention to the impact of the financial arrangements on the supervisory relationship. (History: 37-1-131, 37-17-202, MCA; IMP, 37-1-131, 37-17-302, [Chap. 43, L. of 2021], MCA; Eff. 12/31/72; AMD, Eff. 5/6/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1988 MAR p. 570, Eff. 3/25/88; AMD, 1994 MAR p. 389, Eff. 2/25/94; AMD, 1995 MAR p. 354, Eff. 3/17/95; AMD, 2001 MAR p. 1742, Eff. 9/7/01; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2007 MAR p. 348, Eff. 3/23/07; AMD, 2010 MAR p. 1508, Eff. 6/25/10; AMD, 2012 MAR p. 1041, Eff. 5/25/12; AMD, 2014 MAR p. 2459, Eff. 10/10/14; AMD, 2020 MAR p. 45, Eff. 1/18/20; AMD, 2021 MAR p. 1058, Eff. 8/28/21.)

Rules 24.189.608 and 24.189.609 reserved

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24.189.610 EXAMINATION (1) Examinations for licensure are a computerized national examination and 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. The acceptable level of performance on the national examination is a scaled score of 500.

(2) Applicants may take the Montana training course as many times as necessary to pass. Applicants who fail the national examination two or more times must file a plan with the board to secure further professional training and experience before retaking the exam. The applicant must complete the approved plan before retaking the examination. (History: 37-1-131, 37-17-202, MCA; IMP, 37-1-131, 37-17-302, MCA; Eff. 12/31/72; AMD, Eff. 5/6/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1988 MAR p. 570, Eff. 3/25/88; AMD, 1993 MAR p. 2232, Eff. 10/1/93; AMD, 1999 MAR p. 211, Eff. 1/29/99; AMD, 2001 MAR p. 1742, Eff. 9/7/01; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2012 MAR p. 1041, Eff. 5/25/12; AMD, 2016 MAR p. 2337, Eff. 12/10/16; AMD, 2018 MAR p. 844, Eff. 4/28/18; AMD, 2020 MAR p. 2081, Eff. 11/7/20.)

Rules 24.189.611 and 24.189.612 reserved

24.189.613 NONROUTINE PSYCHOLOGIST APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2018 MAR p. 844, Eff. 4/28/18; AMD, 2021 MAR p. 556, Eff. 5/15/21.)

24.189.614 PSYCHOLOGIST APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.)

Rules 24.189.615 through 24.189.619 reserved

24.189.620 LICENSEES FROM OTHER STATES OR CANADIAN JURISDICTIONS (REPEALED) (History: 37-1-131, 37-17-202, MCA; IMP, 37-1-304, 37-17-304, MCA; Eff. 12/31/72; AMD, Eff. 1/5/74; AMD, Eff. 5/6/76; TRANS, from Dept. of Prof. & Occup. Lic., Ch. 274, L. 1981, Eff. 7/1/81; AMD, 1988 MAR p. 570, Eff. 3/25/88; AMD, 1994 MAR p. 389, Eff. 2/25/94; AMD, 1997 MAR p. 538, Eff. 3/25/97; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2005 MAR p. 1294, Eff. 7/15/05; AMD, 2014 MAR p. 2459, Eff. 10/10/14; REP, 2020 MAR p. 45, Eff. 1/18/20.)

Rules 24.189.621 through 24.189.624 reserved

24.189.625 LICENSURE OF FOREIGN-TRAINED PSYCHOLOGISTS

(1) Foreign-trained applicants shall fulfill all requirements for licensure as stated in this chapter.

(2) In addition, foreign-trained applicants shall provide documentation of receipt of a doctoral degree in clinical psychology with educational standards substantially equivalent to those established by a graduate program approved by the American Psychological Association, as evidenced by the assessment of a board-approved evaluator. If a separate fee is required for this service, the fee shall be paid by the applicant. Final approval of the substantial equivalence of the educational standards lies with the board.

(3) Foreign-trained applicants shall provide proof of either:

(a) successful completion of a college undergraduate program taught in the English language. Official notice of such completion shall be submitted to the board directly from the registrar, dean or provost of the undergraduate institution; or

(b) for applicants who received their undergraduate degree from a program not taught in English, evidence of successful completion of and a minimum score of Level 8 on the International English Language Testing System (IELTS) English proficiency examination. (History: 37-1-131, 37-17-202, MCA; IMP, 37-1-131, 37-17-302, 37-17-309, MCA; NEW, 2004 MAR p. 1474, Eff. 7/2/04; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2017 MAR p. 1654, Eff. 9/23/17.)

Rules 24.189.626 through 24.189.629 reserved

24.189.630 LICENSURE AS A PSYCHOLOGIST BY EXPERIENCE (SENIOR) (REPEALED) (History: 37-17-202, MCA; IMP, 37-17-310, MCA; NEW, 1996 MAR p. 151, Eff. 1/12/96; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2014 MAR p. 2459, Eff. 10/10/14; AMD, 2018 MAR p. 844, Eff. 4/28/18; REP, 2021 MAR p. 1058, Eff. 8/28/21.)

Rules 24.189.631 and 24.189.632 reserved

24.189.633 TEMPORARY PERMIT (1) A psychologist applicant requesting a temporary permit must submit to the board:

- (a) an application for a temporary permit, which must include a supervision agreement signed by the proposed supervisor;
- (b) the fee for the temporary permit application;
- (c) a completed license application; and
- (d) the fee for the license application.

(2) A psychologist applicant for licensure may be issued a temporary permit if the applicant:

- (a) lacks only the examination for licensure; and
- (b) works under the supervision of a board-approved psychologist.

(3) The supervised practice of psychology that occurs without the board's preapproval and outside of the activities and services exempted under 37-17-104, MCA, is the unlicensed practice of psychology, which is a disciplinary matter.

(4) Before commencing supervision of a temporary permit holder, a supervisor shall obtain board approval. Supervisors must, at a minimum:

- (a) be licensed in Montana throughout the period of supervision;
- (b) have no less than three years experience as a licensed psychologist prior to the date supervision begins; and
- (c) during the period of supervision, remain free of disciplinary sanctions against each psychology license held by the supervisor.

(5) The supervisor shall:

- (a) not be required to work in the same setting as nor be an actual employee of the organization or institution where the temporary permit holder works;
- (b) be available in a timely manner for supervision in the event of an emergency;
- (c) be available to the temporary permit holder's clients for emergency consultation and intervention via no less than telephone communication;
- (d) determine the adequacy of the temporary permit holder's preparation for the tasks to be performed and determine the level of supervision;
- (e) be ethically and legally responsible for all of the professional activities of the temporary permit holder;
- (f) terminate the temporary permit holder's activities and inform the board of the reasons for terminating those activities when it is reasonably necessary to ensure the protection of the public; and
- (g) report to the board any breach in ethical, legal, or professional responsibilities of the temporary permit holder.

(6) During the supervision period, the temporary permit holder shall:

- (a) when describing his or her activities and services, use the title "temporary permit practitioner in psychology";
- (b) when signing psychological reports and other professional opinions, conclusions, and written work rendered by the temporary permit holder, use the title "temporary permit practitioner in psychology", and obtain the countersignature of the supervisor; and
- (c) inform each client orally and in writing of the supervised nature of the work and provide each client the name of the supervisor.

(7) A supervisor whose primary responsibilities are in another employment position shall not supervise more than a total of three supervisees, including temporary permit holders, at any one time.

(8) A supervisor shall not be involved in a dual relationship with a temporary permit holder, which would compromise the supervisory relationship; e.g., related by marriage, immediate family, business partnership, employee of the temporary permit holder, or a former client-professional relationship. If the temporary permit holder pays the supervisor for the supervision, the supervisor shall be especially cautious to avoid negative impacts from the financial arrangements on the supervisory relationship.

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

(10) A temporary practice permit shall terminate no later than two years following issuance. (History: 37-1-131, 37-1-319, MCA; IMP, 37-1-131, 37-1-305, MCA; NEW, 2012 MAR p. 1041, Eff. 5/25/12; AMD, 2014 MAR p. 2459, Eff. 10/10/14; AMD, 2016 MAR p. 2337, Eff. 12/10/16; AMD, 2017 MAR p. 1656, Eff. 9/23/17; AMD, 2020 MAR p. 2081, Eff. 11/7/20.)

Subchapter 7 reserved

Subchapter 8

Parenting Plan Evaluations

24.189.801 ORIENTING GUIDELINES (1) The purpose of parenting plan evaluation regulations is to protect both the public, who are the consumers of psychological services, and the psychologists, who are the providers of services. These regulations intend to insure competency of the provider and consistency of the procedures in child custody proceedings pursuant to Title 40, chapter 4, MCA, termination of marriage, child custody, support.

(2) The purpose of a parenting plan evaluation is to determine to the extent possible, what is in the best interests of the child. The "fit" between each parent and the child or children is the central issue, not the psychological diagnosis of each parent or of each child. If a parent or child shows any relevant mental, cognitive, physical, or other disorder, the implications of that disorder for the best interest of the child must be addressed.

(3) Two different parents showing very similar personalities and parenting styles might affect two different children in essentially different ways. It cannot be assumed that qualities generally admired by the population at large are necessarily those that make the better parent, or are in the best interests of the child. For example, factors such as which parent has the most money, the most friends, the largest house, is the most religious, the most physically active, has the most education, is home the most, lacks a history of psychological diagnosis or treatment, and so on, may bear on the issue at hand, but are not the determining factors in and of themselves. How each factor supports the child's needs and well-being, or detracts from the child's needs and well-being, is a primary consideration. The intention of a parenting plan evaluation is to make a parenting recommendation that will support the child's development along the healthiest lines possible. (History: 37-1-131, 37-1-136, MCA; IMP, 37-1-136, 37-17-202, MCA; NEW, 2001 MAR p. 1742, Eff. 9/7/01; TRANS, from Commerce, 2004 MAR p. 2282.)

Rules 24.189.802 and 24.189.803 reserved

24.189.804 ROLE OF THE PSYCHOLOGIST (1) In a parenting plan evaluation, the psychologist shall maintain an unbiased, impartial role. The client is the child, and recommendations must be made which are in the best psychological interests of the child. The psychologist shall clarify with all parties, attorneys, and the court the nature of the psychologist's role as an objective evaluator.

(a) The psychologist shall act as an impartial evaluator of the parties, assessing relevant information, and informing and advising the court and other parties of the relevant factors pertaining to the parenting issue.

(b) The psychologist shall remain impartial, regardless of whether the psychologist is retained by the court or by a party to the proceeding, and regardless of whom is responsible for payment.

(c) If circumstances prevent the psychologist from performing in an impartial role, the psychologist shall attempt to withdraw from the case. (See ARM 24.189.807)

(d) If the psychologist is not able to withdraw, the psychologist must reveal any factors that may bias the psychologist's findings and/or compromise the psychologist's objectivity.

(e) Communication with parents or attorneys must be conducted in such a manner as to avoid bias. The psychologist must exercise discretion in informing parties or their attorneys of significant information that is gathered during the course of the evaluation. The psychologist shall not communicate essential information to one party's attorney without also communicating the information to the other party's attorney, and to the guardian ad litem, if one is appointed. (History: 37-1-131, 37-1-136, MCA; IMP, 37-1-136, 37-17-202, MCA; NEW, 2001 MAR p. 1742, Eff. 9/7/01; TRANS, from Commerce, 2004 MAR p. 2282.)

Rules 24.189.805 and 24.189.806 reserved

24.189.807 DUAL RELATIONSHIPS (1) The psychologist shall avoid dual relationships and other situations which might produce a conflict of interest when performing parenting plan evaluations.

(a) The psychologist shall not conduct a parenting plan evaluation in a case in which the psychologist has served or can reasonably anticipate serving in a therapeutic role for the child or the child's immediate family, or has had other significant involvement, e.g., social, personal, business, or professional, that may compromise the psychologist's objectivity.

(b) The psychologist may not accept any of the involved participants in the parenting plan evaluation as therapy clients, either during or after the evaluation.

(c) The psychologist who is asked to testify regarding a therapy client who is involved in a parenting plan case shall be aware of the limitations and possible biases inherent in such a role and the possible impact on the ongoing therapeutic relationship. If required to testify, the psychologist may not give an expert opinion regarding parenting plan issues and shall limit the psychologist's testimony to factual issues. (History: 37-1-131, 37-1-136, MCA; IMP, 37-1-136, 37-17-202, MCA; NEW, 2001 MAR p. 1742, Eff. 9/7/01; TRANS, from Commerce, 2004 MAR p. 2282.)

Rules 24.189.808 and 24.189.809 reserved

24.189.810 COMPETENCY (1) Psychologists performing parenting plan evaluations in Montana shall be licensed to practice in the state of Montana or meet the requirements for consultation in 37-17-104, MCA.

(2) Psychologists may only perform parenting plan evaluations if they have acquired specialized training, education, and experience in the areas of psychological assessment of children and adults, child and family development, child and family psychopathology, and the impact of divorce on families. They shall acquire current knowledge regarding diverse populations, especially as it relates to child-rearing issues.

(3) Psychologists shall use multiple methods of data collection in a parenting plan evaluation.

(4) Psychologists shall understand, clarify, and utilize the concept of the "best interests of the child" guideline as set forth in Title 40, chapter 4, MCA.

(5) Psychologists shall maintain current knowledge of legal standards regarding parenting plans, divorce, and laws regarding abuse, neglect and family violence. Psychologists shall also understand the civil rights of parties in legal proceedings in which they participate, and manage their professional conduct in a manner that does not diminish or threaten those rights.

(6) Psychologists shall not render diagnoses or form an expert opinion about any party not personally evaluated and may not make parenting plan recommendations when both parents and children have not been personally evaluated by the psychologist. In situations where all parties cannot be evaluated, psychologists shall limit recommendations and opinions to individuals evaluated and shall avoid making recommendations regarding placement and visitation. (History: 37-1-131, 37-1-136, 37-17-202, MCA; IMP, 37-1-136, 37-17-202, MCA; NEW, 2001 MAR p. 1742, Eff. 9/7/01; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2017 MAR p. 1654, Eff. 9/23/17.)

Rules 24.189.811 and 24.189.812 reserved

24.189.813 LIMITS OF CONFIDENTIALITY (1) Psychologists shall inform all participants, including parents, children when feasible, other family members, and third party contacts such as teachers, physicians, and child care providers, as to the limits of confidentiality which can be expected with regard to any information they may provide to the psychologist over the course of the evaluation. This includes the limits of confidentiality applicable to the general practice of psychology, such as a duty to warn in instances of possible imminent danger to a participant or to others, or legal obligations to report suspected child or elder abuse, and also exceptions to confidentiality stemming from the specific requirements of a parenting plan evaluation, including:

- (a) the potential need to disclose information provided by any participant to other participants, in order to obtain accounts of circumstances pertinent to the issues being evaluated;
- (b) the expectation of disclosure of relevant information provided by individual participants to the attorneys involved in the case, to the court, and to the guardian ad litem, if one has been appointed; and
- (c) the likely disclosure of the psychologist's findings, professional opinions and recommendations regarding the resolution of contested matters which fall within the scope of the evaluation to parents, their attorneys, the court, and any other party, such as a guardian ad litem.

(2) Psychologists shall obtain written waivers of confidentiality from the parents who are participating in the evaluation, encompassing all disclosures of information to other persons, including other participants in the evaluation, attorneys, and the court.

(3) Psychologists shall take reasonable precautions in their handling of children's disclosures of abuse, neglect or any other circumstances, when such disclosure may place the child at increased risk of physical or emotional harm. Psychologists shall also recognize the right of any person accused of misconduct to respond to such allegations while placing the highest priority on the safety and well-being of the child.

(4) Psychologists recognize that disclosures of statements by abused spouses may pose special risks to the safety and well-being of persons who claim to be victims of domestic abuse. Prior to disclosure of such allegations to an alleged perpetrator or to other persons who may support, collude with, or otherwise increase the risk of abuse, the psychologist shall inform the alleged victim that the disclosure will take place. If appropriate, information will be provided as to available community resources for protection, planning, and personal assistance, and counseling for victims of domestic abuse.

(5) Psychologists shall not agree to requests by participants in a parenting plan evaluation that information shared with the psychologist be concealed. When such requests are made, the psychologist shall clarify the requirements of the evaluation as regards confidentiality, and may advise the participant to consult with the participant's attorney before proceeding with the evaluation. The psychologist must ultimately respect the right of any participant to withhold information from the evaluation. Whether the refusal to provide information should itself be made known to others, must be decided by the psychologist based on the relevance of such refusal to the issues before the court in the particular case at hand.

(6) Psychologists recognize the possibility that the need to disclose information obtained in the evaluation may limit the validity of data acquired during the evaluation by inhibiting the free and complete disclosure of information by participants. (History: 37-1-131, 37-1-136, 37-17-202, MCA; IMP, 37-1-136, 37-17-202, MCA; NEW, 2001 MAR p. 1742, Eff. 9/7/01; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2017 MAR p. 1654, Eff. 9/23/17.)

Rules 24.189.814 through 24.189.816 reserved

24.189.817 DISCLOSURE AND INFORMED CONSENT (1) Psychologists shall obtain informed consents from parents involved in parenting plan evaluations and, to the extent feasible, inform children of significant aspects of the evaluation, prior to conducting interviews, testing or other data-gathering procedures. Disclosure of information to the parents shall include a thorough explanation of all major aspects of the evaluation, including:

- (a) a general review of the purpose, nature, methods, scope and limitations of a parenting plan evaluation, and the potential impact of the evaluation on the outcome of litigation;
- (b) clarification as to who has requested the evaluation and who will receive verbal or written feedback as to the results and recommendations;
- (c) the nature of data to be collected and potential uses to which that data will be put, including data from psychological testing and structured interview protocols;
- (d) the methods of assessing and collecting fees for professional services, including specification of who will be financially responsible for the evaluation, expectations as to timing of payments, and policies related to the collection of unpaid fees, and;
- (e) the nature and limits of confidentiality, both as generally applicable to psychological services and as required by the nature of the evaluation. (See 24.189.813)

(2) Psychologists shall inform the parents of the above elements and offer each parent the opportunity to discuss the proposed evaluation with an attorney before proceeding. (History: 37-1-131, 37-1-136, MCA; IMP, 37-1-136, 37-17-202, MCA; NEW, 2001 MAR p. 1742, Eff. 9/7/01; TRANS, from Commerce, 2004 MAR p. 2282.)

Rules 24.189.818 and 24.189.819 reserved

24.189.820 COLLECTION AND USE OF DATA (1) The psychologist shall use generally accepted standards for the collection and use of data.

(2) In evaluating alternative hypotheses, psychologists shall include data from several different sources and of several different types, such as interviews, testing, observations of interactions, questionnaires, and record reviews. The psychologist shall be prepared to specify the reasons for collecting each kind of data and how it relates to the child's best interests.

(3) As data are collected, the psychologist must keep comprehensive and detailed records. All raw data, which might include test forms, handwritten notes, scribbles in margins, records of telephone conversations, observations of parent-child interaction, observations of parent-parent interaction, consultations with other professionals, any audio or video tapes made, and so on, must be saved and made available for review, if necessary.

(4) Data that are not objective should not be treated as though they are. The psychologist shall attempt to corroborate or rule out allegations that either parent has behaviors that affect the child detrimentally. If the psychologist is not able to form a clear opinion based on objective data or data verified by multiple sources, the psychologist should state this fact. If appropriate, the psychologist may offer a method by which further data along any dimension might be gathered, for example, recommending that a child meet with a therapist over time, that a parent undergo drug and alcohol assessment, and so on.

(5) If issues affecting what is in the child's best interest arise and cannot be investigated due to the limited scope of the evaluation as imposed by the court or an agency, the psychologist shall report those issues to the parents, their attorneys, and the court. If issues arise that the psychologist does not have the expertise to investigate or form an opinion on, another psychologist or specialist who does have the required expertise should be brought in to address that issue. (History: 37-1-131, 37-1-136, MCA; IMP, 37-1-136, 37-17-202, MCA; NEW, 2001 MAR p. 1742, Eff. 9/7/01; TRANS, from Commerce, 2004 MAR p. 2282.)

Rules 24.189.821 and 24.189.822 reserved

24.189.823 DOCUMENTATION (1) When psychologists complete a parenting plan evaluation, they shall produce a written report of the findings and recommendations.

(2) Psychologists shall retain all items presented to them or a copy thereof that are used for consideration in formulating a professional opinion (e.g., videos, photos, etc.) as well as a copy of the final report.

(3) Psychologists shall maintain clear and complete records.

(4) Psychologists shall retain all releases of information signed by the parties.

(5) Psychologists shall maintain adequate documentation of their contacts with clients and of the clinically significant information derived from these contacts.

(6) Psychologists shall create and maintain documentation of all data that form the basis for their conclusions, in the detail and quality that would be consistent with reasonable scrutiny in an adjudicative forum.

(7) Psychologists shall make clear, to all parties, that the report may be altered at any time by the psychologist until the final decision of the court is made.

(8) Psychologists shall make a reasonable effort to ensure that the court, attorneys, parents, and guardian ad litem, if any, receive the report at the same time.

(9) Psychologists shall recognize that all items in the case file, other than copies of tests, raw test data, and computer-generated interpretive reports may be brought into the courtroom.

(10) Psychologists shall recognize that all parenting plan evaluations and reports are highly sensitive material and discretion is necessary. (History: 37-1-131, 37-1-136, MCA; IMP, 37-1-136, 37-17-202, MCA; NEW, 2001 MAR p. 1742, Eff. 9/7/01; TRANS, from Commerce, 2004 MAR p. 2282.)

Subchapter 9

Behavior Analysts

24.189.901 BEHAVIOR ANALYST APPLICATION PROCEDURES

(1) Applications for licensure of a behavior analyst, when properly filled out by the applicant, must provide the board with that information necessary to ascertain whether 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) Applicants will be notified of any deficiencies in their applications.

(b) An application must be completed for final board review no more than 12 months after the board receives it or it will expire and a new application and fee will be required.

(2) An applicant for a behavior analyst license must submit:

(a) a completed application on a form prescribed by the department;

(b) the application fee(s) specified in ARM 24.189.401;

(c) verification of all professional licenses currently or previously held in another state on a form prescribed by the department;

(d) a completed criminal background check; and

(e) proof of current certification as a behavior analyst by the BACB.

(3) The agency fee for processing the criminal background check will be provided directly to that agency. The results of the criminal background check are to be provided directly from the agency to the board.

(4) The board will consider the acceptability of the professional experience presented by the applicant for consideration in keeping with ARM 24.189.910.

(History: 37-1-131, 37-17-406, MCA; IMP, 37-1-131, 37-17-403, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17; AMD, 2018 MAR p. 978, Eff. 5/12/18.)

Rules 24.189.902 and 24.189.903 reserved

24.189.904 MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education toward the requirements for licensure as a behavior analyst or assistant behavior analyst.

(2) Relevant military training, service, or education must be completed by an applicant while a member of:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a behavior analyst or assistant behavior analyst corresponding to the licensure type for which applicant is applying. Satisfactory evidence includes:

- (a) a copy of the applicant's military discharge document (DD 214 or other discharge documentation);
- (b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and
- (c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements. (History: 37-1-145, 37-17-406, MCA; IMP, 37-1-145, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17.)

Rules 24.189.905 and 24.189.906 reserved

24.189.907 ASSISTANT BEHAVIOR ANALYST APPLICATION

PROCEDURES (1) Applications for licensure of an assistant behavior analyst, when properly filled out by the applicant, must provide the board with that information necessary to ascertain whether 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) Applicants will be notified of any deficiencies in their applications.
- (b) An application must be completed for final board review no more than 12 months after the board receives it or it will expire and a new application and fee will be required.
- (2) An applicant for an assistant behavior analyst license must submit:
 - (a) a completed application on a form prescribed by the department;
 - (b) the application fee(s) specified in ARM 24.189.401;
 - (c) verification of all professional licenses currently or previously held in another state on a form prescribed by the department;
 - (d) a completed criminal background check;
 - (e) proof of current certification as an assistant behavior analyst by the BACB; and
 - (f) proof of current supervision by a licensed behavior analyst. (History: 37-1-131, 37-17-406, MCA; IMP, 37-1-131, 37-17-403, 37-17-405, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17; AMD, 2018 MAR p. 978, Eff. 5/12/18.)

Rules 24.189.908 and 24.189.909 reserved

24.189.910 BEHAVIOR ANALYST EXPERIENCE AND SUPERVISION

(1) Upon licensure application, behavior analyst applicants shall provide proof, together with the form prescribed by the department, reflecting 100 hours of supervised experience beyond those hours required by the BACB.

(2) Each behavior analyst applicant certified by the BACB on or before December 31, 2017, shall be granted one year in which to provide proof to the board demonstrating the applicant has met the experience requirements of this rule.

(3) A behavior analyst may not supervise:

- (a) more than three student interns if the analyst is also supervising behavior technicians or assistant behavior analysts; or
- (b) more than seven student interns if the analyst is not supervising behavior technicians or assistant behavior analysts.

(4) A behavior analyst shall report to the board all student interns, behavior technicians, and assistant behavior analysts within five business days of commencement of supervision of each student intern, behavior technician, or assistant behavior analyst.

(5) A supervising behavior analyst may provide the following types of supervision to a student intern, behavior technician, or assistant behavior analyst:

- (a) direct supervision;
- (b) on-site supervision; or
- (c) general or remote supervision.

(6) The supervising behavior analyst shall consider the location, nature, and setting of the practice and the experience of the student intern, behavior technician, or assistant behavior analyst when entering into a new supervision agreement to ensure the safety and quality of behavior analysis services.

(7) The supervising behavior analyst shall meet face-to-face with each student intern, behavior technician, and assistant behavior analyst supervised a minimum of once a month for the purposes of discussion, education, and training, to include but not be limited to practice issues and client care.

(8) Supervising behavior analysts shall provide appropriate and real-time means of communication or backup supervision for their supervisees.

(9) Supervising behavior analysts shall determine the appropriate level supervision (direct, on-site, or general) based on the supervisee's education, training, and experience.

(10) Each supervising behavior analyst assumes professional and legal responsibility for all student interns, behavior technicians, and assistant behavior analysts under the supervising behavior analyst's supervision regardless of the varying types of supervision.

(11) A supervising behavior analyst shall enter into a written supervision agreement with each student intern, behavior technician, or assistant behavior analyst to be supervised to ensure the safety and quality of behavior analysis services, considering the location, nature, and setting of the practice and the experience of the supervisee, and shall provide for:

- (a) an appropriate type or combination of types of supervision identified in (5), including specific supervising behavior analyst response and availability times;
- (b) an appropriate scope of delegation of practice authority and appropriate limitations upon the practice authority of the particular supervisee; and
- (c) appropriate frequency and duration of face-to-face meetings.

(12) The supervision agreement may provide for periodic changes in the type of supervision, scope of delegation, practice limitations, frequency, and duration of face-to-face meetings, and percentage of case files reviewed, based upon the duration and nature of experience gained by the supervisee, the supervising behavior analyst's written assessment and evaluation of the supervisee's experience and judgment, and other factors relevant to the nature and degree of supervision appropriate to ensure the safety and quality of behavior analysis services.

(13) The supervision agreement must be kept by the supervising behavior analyst for seven years. A legible copy of the signed supervision agreement must be submitted, if requested, to the board or its designee. (History: 37-17-406, MCA; IMP, 37-17-403, 37-17-405, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17; AMD, 2020 MAR p. 2081, Eff. 11/7/20.)

24.189.911 NONROUTINE BEHAVIOR ANALYST OR ASSISTANT BEHAVIOR ANALYST APPLICATIONS (1) For the purpose of processing nonroutine applications, the board incorporates the definitions of routine and nonroutine at ARM 24.101.402 by reference.

(2) Nonroutine applications must be reviewed and approved by the board before a license may be issued. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2018 MAR p. 844, Eff. 4/28/18; AMD, 2021 MAR p. 556, Eff. 5/15/21.)

24.189.912 BEHAVIOR ANALYST OR ASSISTANT BEHAVIOR ANALYST APPLICANTS WITH CRIMINAL CONVICTIONS (1) The board incorporates ARM 24.101.406 by reference with no modifications. (History: 37-1-131, MCA; IMP, 37-1-101, 37-1-131, MCA; NEW, 2021 MAR p. 556, Eff. 5/15/21.)

24.189.913 CONTINUING EDUCATION REQUIREMENTS (1) In accordance with 37-17-202, MCA, the board establishes requirements for the continuing education of licensed behavior analysts and assistant behavior analysts.

(2) The board/staff will not preapprove continuing education programs or sponsors. Qualifying criteria for continuing education are specified in these rules. It is the responsibility of the licensee to select quality programs that contribute to the licensee's knowledge and competence and that meet these criteria.

(3) A continuing education activity must meet the following criteria:

(a) The activity must:

- (i) have significant intellectual or practical content;
- (ii) deal primarily with substantive behavior analysis issues, skills, laws, rules, or ethical standards related to one's role as a behavior analyst or assistant behavior analyst; and
- (iii) be conducted by an individual or group qualified by practical or academic experience.

(b) The board may accept continuing education activities from other professional groups or academic disciplines if the licensee demonstrates that the activity is substantially related to the licensee's role as a behavior analyst or assistant behavior analyst.

(4) All CE must be documented to show proof of completion. Documentation must include the following information:

- (a) licensee name;
- (b) course title and description of content;
- (c) presenter or sponsor;
- (d) course date(s); and
- (e) number of CE hours earned.

(5) The licensee is responsible for maintaining CE records for three years following the renewal cycle reporting period and for making those records available upon request. (History: 37-1-319, 37-17-406, MCA; IMP, 37-1-306, 37-1-319, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17; AMD, 2021 MAR p. 1058, Eff. 8/28/21.)

Rules 24.189.914 and 24.189.915 reserved

24.189.916 CONTINUING EDUCATION REPORTING AND AUDIT (1) One continuing education credit will be granted for each hour of participation in the continuing education activity.

(2) A licensed behavior analyst or assistant behavior analyst must earn at least 20 continuing education credits, of which two hours must be in ethics and one hour must be in suicide prevention, every two years. The two-year cycle will end on the renewal date set by ARM 24.101.413 in odd-numbered years. Continuing education credits may not be carried over from one two-year cycle to another.

(a) No continuing education is required for licensees licensed less than one full calendar year on their first reporting date.

(b) All licensed behavior analysts and licensed assistant behavior analysts shall affirm an understanding of their recurring duty to comply with CE requirements as a part of license renewal.

(c) The department may randomly audit up to 50 percent of renewed licensees.

(d) No continuing education programs used to complete delinquent continuing education plan requirements for licensure can be used to meet the continuing education requirements for the next continuing education reporting period.

(e) Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension.

(f) A licensee may request an exemption from CE requirements due to hardship. Requests will be considered by the board. (History: 37-1-131, 37-1-319, 37-17-406, MCA; IMP, 37-1-131, 37-1-141, 37-1-306, 37-1-319, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17; AMD, 2021 MAR p. 1058, Eff. 8/28/21.)

Rules 24.189.917 and 24.189.918 reserved

24.189.919 CONTINUING EDUCATION PROGRAM OPTIONS

(1) Acceptable continuing education may be chosen from (a) through (d).

(a) Acceptable continuing education includes the following:

(i) any APA-approved or BACB-approved continuing education activity or program for behavior analysts that meets the criteria specified in ARM 24.189.913;

(ii) credit may be given for workshops and other educational activities offered at professional conferences and conventions sponsored by the APA and its affiliates or the BACB if the content of such presentations meets the criteria specified in ARM 24.189.913. General business meetings do not qualify;

(iii) any other specific activities, i.e., audio tapes or conference/workshops, meeting the criteria specified in ARM 24.189.913;

(iv) formally organized classes, with preassigned credit and attendance verifiable by transcript, offered under the auspices of regionally accredited institutions of higher education that meet criteria specified in ARM 24.189.913.

(b) The following professional activities that meet criteria specified in ARM 24.189.913 may be submitted in fulfillment of no more than five continuing education units:

(i) initial presentation of a meeting paper or workshop in the field of behavior analysis based on thorough review of the literature, and including theoretical ideas, with application to clinical work. One hour of continuing education will be credited for each hour of presentation. In addition, one hour of continuing education will be credited for preparation for each hour of presentation;

(ii) publication of a review paper or a formal theoretical paper in a refereed journal in the field of behavior analysis;

(iii) carrying out a research project reported in publishable form;

(iv) teaching a formally organized class in behavior analysis or related subjects that meets the criteria specified in ARM 24.189.913.

(c) No more than four continuing education units may be granted for courses relative to the management of a professional practice.

(d) Behavior analyst board members may receive continuing education credit of up to eight hours per calendar year for their attendance of board meetings.

(History: 37-1-319, 37-17-202, 37-17-406, MCA; IMP, 37-1-306, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17.)

Rules 24.189.920 and 24.189.921 reserved

24.189.922 REPRESENTATION OF SELF AND SERVICES (1) In representation of self or services, a licensee:

- (a) shall display the behavior analyst's or assistant behavior analyst's current license to practice behavior analysis on the premises of the professional office;
- (b) shall not represent oneself as a behavior analyst or assistant behavior analyst while the practitioner's license is currently suspended, revoked, or not renewed;
- (c) shall not use fraud, misrepresentation, or deception in obtaining a behavior analyst or assistant behavior analyst license, in passing a behavior analyst or assistant behavior analyst licensing examination, in assisting another to obtain a behavior analyst or assistant behavior analyst license, or to pass a behavior analyst or assistant behavior analyst licensing examination;
- (d) shall not aid or abet an unlicensed person in misrepresenting the person's professional credentials or in practicing when a license is required, or otherwise illegally engaging in the practice of behavior analysis;
- (e) shall not promote the use of behavior analysis assessment techniques by unqualified persons;
- (f) shall not use fraud, misrepresentation, or deception in billing clients or third-party payers, in providing behavior analysis or assistant behavior analysis services, in reporting the results of behavior analyst or assistant behavior analyst services, or in conducting any other activity related to the practice of behavior analysis.

(2) Regarding advertising, a licensee or license applicant:

- (a) shall not engage in advertising that is false, fraudulent, or misleading;
- (b) shall identify paid advertisements as such, unless it is already apparent from the context;
- (c) shall not solicit testimonials from current clients, patients, or other persons who, because of their particular circumstances, are vulnerable to undue influence;
- (d) shall not induce a client to solicit business on behalf of the behavior analyst or assistant behavior analyst;
- (e) shall take professional responsibility when engaging others to create or place public statements that promote their professional practice, products, or activities.

(3) Regarding representation in the public arena, a licensee or license applicant:

- (a) shall make reasonable efforts to prevent others whom they do not control (such as employers, publishers, sponsors, organizational clients, and representatives of the print or broadcast media) from making deceptive statements concerning behavior analyst or assistant behavior analyst practice or professional or scientific activities;
- (b) shall make reasonable efforts to correct deceptive statements about their work or misuse of their work made by others;
- (c) shall not compensate the press (radio, television, or other communication media), or their employees or supervisees, in return for publicity or a news item;

(d) shall not make public statements that are false, deceptive, misleading, or fraudulent (either by omission or commission) concerning licensee's research or practice, or concerning other work activities or those of persons or organizations with which they are affiliated;

(i) As examples (and not in limitation) of this rule, behavior analysts or assistant behavior analysts shall not make false or deceptive statements concerning their:

(A) training, experience, or competence;

(B) academic degrees;

(C) credentials;

(D) institutional or association affiliations;

(E) services;

(F) the scientific or clinical basis for, or results or degree of, success of their services;

(G) fees; or

(H) publications or research findings;

(e) shall, when providing advice or comment when a defined professional relationship does not exist, take reasonable precautions to ensure that the statements are based on appropriate behavior analysis literature and practice. Furthermore, the behavior analyst or assistant behavior analyst shall take reasonable precautions to ensure that the recipient of such information does not infer that a defined professional relationship has been established with the behavior analyst or assistant behavior analyst personally;

(f) shall not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential clients or other persons who, because of their particular circumstances, are vulnerable to undue influence. However, this does not preclude attempting to implement appropriate collateral contacts with significant others for the purpose of benefiting an already engaged client;

(g) shall not associate with, or permit the behavior analyst's or assistant behavior analyst's name to be used in connection with, any services or products in such a way as to misrepresent the services or products, the degree of the licensee's responsibility for the services or products, or the nature of the licensee's association with the services or products. (History: 37-1-131, 37-1-319, 37-17-406, MCA; IMP, 37-1-131, 37-1-316, 37-17-402, 37-17-405, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17.)

Rules 24.189.923 and 24.189.924 reserved

24.189.925 PRACTICE OF BEHAVIOR ANALYSIS (1) In regard to conduct in the integrity of the profession, a licensee:

- (a) shall not create an unreasonable risk of physical or mental harm or serious financial loss to the client, such as malpractice or an act or acts below the standard of care concerning behavior analysts or assistant behavior analysts, whether actual physical or mental injury or harm was suffered by the client;
- (b) shall not provide any services in the practice of behavior analysis except those services within the scope of the licensee's education, training, supervised experience, or appropriate professional experience;
- (c) shall not participate in activities in which it appears likely that the licensee's skills or data will be misused by others, unless corrective mechanisms are available.

(2) Regarding disclosure and obligation to report, a licensee:

- (a) shall disclose fees and confidentiality prior to initiating the defined professional relationship with clients, except in the case of a clinical emergency. Upon initiating the defined professional relationship there must be a discussion of the nature and anticipated course of contracted services, limitations of confidentiality and modalities of communication by which treatment is provided, and mandated reporting situations. When services rendered involve more than one interested party, the behavior analyst or assistant behavior analyst shall clarify the dimensions of confidentiality and professional responsibility to all participating parties;
- (b) who has substantial reason to believe that there has been a violation of the statutes or rules of the board, shall so inform the board in writing. However, when the information regarding such violation is obtained in a defined professional relationship with a client, the behavior analyst or assistant behavior analyst shall report it only with the written permission of the client;
- (c) shall, when initiating conjoint services to several persons who have a relationship (e.g., familial, communal, or business), attempt to clarify which of the individuals are clients and the relationship the licensee will have with each person. This clarification includes the role of the licensee and the probable uses of the services provided or the information obtained;
- (d) shall keep the client fully informed as to the purpose and nature of any evaluation, treatment, or other procedures, and of the client's right to freedom of choice regarding services provided;
- (e) shall not undertake research on human subjects without a study of the potential effects of the research on the subjects, and shall not undertake research on human subjects without full disclosure of risks to the subjects.

(3) In regard to judicial or disciplinary situations:

- (a) a licensee or license applicant shall cooperate with an investigation by:
 - (i) furnishing any papers or documents in the possession and under the control of the licensee, as per the appropriate health care records act;
 - (ii) furnishing in writing a full and complete explanation covering the matter contained in the complaint; and
 - (iii) responding to subpoenas issued by the board or the department, whether or not the recipient of the subpoena is the respondent in the proceedings;

(b) a behavior analyst or assistant behavior analyst shall not offer, undertake, or agree to cure or treat disease or affliction by a secret method, procedure, or treatment; nor shall the licensee treat, operate, or prescribe for any health condition by a method, means, or procedure which the licensee refuses to divulge upon demand from the board.

(4) Licensees may only operate within their areas of competence and shall seek appropriate supervision when necessary.

(5) A behavior analyst or assistant behavior analyst must understand the construction/administration/interpretation of the test procedures the licensee employs.

(6) Licensees must maintain current knowledge of scientific, professional, and legal developments within their area of claimed competence and use that knowledge, consistent with accepted clinical and scientific standards, in selecting current data collection methods and procedures for an evaluation.

(7) The behavior analyst or assistant behavior analyst shall be aware of personal and societal biases and engage in nondiscriminatory practice. The behavior analyst or assistant behavior analyst shall be aware of how biases such as age, gender, race, ethnicity, national origin, religion, sexual orientation, gender identity, disability, language, culture, and socioeconomic status may interfere with an objective evaluation and recommendations, and shall strive to overcome any such biases or withdraw from the evaluation.

(8) Behavior analysts or assistant behavior analysts shall maintain current knowledge of legal standards regarding parenting plans, divorce, and laws regarding abuse, neglect, and family violence. Licensees shall also understand the civil rights of parties in legal proceedings in which they participate, and manage their professional conduct in a manner that does not diminish or threaten those rights.

(9) Behavior analysts or assistant behavior analysts shall recognize and state any limitations of their assessments and reports.

(10) Behavior analysts or assistant behavior analysts shall not render diagnoses or form an expert opinion about any party not personally evaluated.

(11) Behavior analysts or assistant behavior analysts shall avoid dual relationships and other situations which might produce a conflict of interest.

(12) Behavior analysts or assistant behavior analysts shall inform all participants, including clients, as to the limits of confidentiality which can be expected with regard to any information they may provide to the licensee over the course of the evaluation. This includes the limits of confidentiality applicable to the general practice of behavior analysis, such as a duty to warn in instances of possible imminent danger to a participant or to others, or legal obligations to report suspected child or elder abuse.

(13) Licensees shall not commit an act of sexual abuse, sexual misconduct, or sexual exploitation, whether or not related to the licensee's practice of behavior analysis.

(14) Each licensee shall not fail to report to the board any student interns, behavior technicians, or assistant behavior analysts whom the licensee supervises.

(15) Licensees shall follow the BACB's Professional and Ethical Compliance Code for Behavior Analysts unless it directly conflicts with Montana statutes or rules. (History: 37-1-131, 37-1-319, 37-17-406, MCA; IMP, 37-1-131, 37-1-316, 37-17-402, 37-17-403, 37-17-405, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17.)

Rules 24.189.926 and 24.189.927 reserved

24.189.928 PROFESSIONAL RESPONSIBILITY (1) Regarding client welfare, a licensee:

- (a) shall attempt to terminate a clinical or consulting relationship when it is reasonably clear to the licensee that the client is not benefiting from it or is being harmed by continued service;
- (b) shall not use relationships with clients to promote commercial enterprises of any kind for personal gain or the profit of an agency;
- (c) shall not bill for services not directly performed for a client, unless there is an explicit agreement that permits this type of billing;
- (d) shall take reasonable steps to avoid harming the licensee's clients with whom there is a defined professional relationship, and to minimize harm where it is foreseeable and unavoidable;
- (e) shall make reasonable efforts to plan for facilitating care in the event that behavior analysis services are interrupted by factors such as the licensee's illness, death, unavailability, or relocation, or by the client's relocation or financial limitations;
- (f) shall, when entering into employment or contractual relationships, provide for orderly and appropriate resolution of responsibility for client care in the event the employment or contractual relationship ends, with paramount consideration given to the welfare of the client;
- (g) shall make an appropriate referral of the client to another professional when requested to do so by the client;
- (h) shall continue the defined professional relationship with the client until a relationship is established with the professional person to whom the client is referred or until the relationship has been terminated by mutual agreement. In situations where referral, consultation, or other changes in the conditions of the treatment are indicated, and the client refuses referral, the licensee shall carefully weigh the possible harm to the client, the licensee, and the licensee's profession that might ensue from continuing the relationship.

(2) Regarding respect for others, a licensee:

(a) shall not exploit persons over whom they have supervisory, evaluative, or other authority such as students, supervisees, employees, research participants, or clients;

(b) who performs interventions or administers, scores, interprets, or uses assessment techniques shall be familiar with the reliability, validation, and related standardization or outcome studies of, and proper applications and uses of, the techniques they use:

(i) shall recognize limits to the certainty with which diagnoses, judgments, or predictions can be made about individuals;

(ii) shall attempt to identify situations in which particular interventions or assessment techniques or norms may not be applicable or may require adjustment in administration or interpretation, because of factors such as individuals' gender, age, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status;

(iii) shall, when offering assessment or scoring procedures to other professionals, accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use;

(iv) shall ensure, unless the nature of the relationship is clearly explained to the person being assessed in advance and precludes provision of an explanation of results, that an explanation of the results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client;

(v) shall, regardless of whether the scoring and interpretation are done by a behavior analyst, by assistants, by behavior technicians, by student interns, or by automated or other outside services, take reasonable steps to ensure that appropriate explanations of results are given and adequate provisions are made for referring and counseling individuals when needed;

(c) when interpreting assessment results, including automated interpretations, shall take into account the various test factors and characteristics of the person being assessed that might affect licensees' judgments or reduce the accuracy of their interpretations and indicate any significant reservations they have about the accuracy or limitations of their interpretations.

(3) In regard to conflict of interest, a licensee shall be concerned primarily with the welfare of any client involved and only secondarily with the interest of the licensee's own professional group, when there is a conflict among professional workers.

(4) Regarding the therapeutic relationship, a licensee:

(a) shall provide behavior analysis services for the purpose of diagnosis, assessment, or treatment only in the context of a defined professional relationship. However, nothing in these rules precludes the provision of behavior analysis services for crisis management or intervention, even in the absence of a defined professional relationship;

(b) shall not prepare personnel reports and recommendations based on test data secured solely by mail, unless such appraisals are an integral part of a continuing client relationship with a company;

(i) the reports shall not be embellished with detailed analyses of the subject's personality traits, as would be appropriate only after intensive interviews with the subject;

(ii) the reports shall not make specific recommendations as to the employment or placement of the subject, which go beyond the licensee's knowledge of the job requirements of the company; and

(iii) the reports shall not purport to eliminate the company's need to carry on other regular employment or personnel practices such as appraisal of the work history, checking of references, or past performance in the company;

(c) shall not undertake or continue a defined professional relationship with a client when the behavior analyst or assistant behavior analyst is or could reasonably be expected to be impaired due to mental, emotional, physiologic, pharmacologic, or substance abuse conditions. If such a condition develops after a defined professional relationship has been initiated, the licensee shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination, and shall assist the client in obtaining services from another professional;

(d) shall give a truthful, understandable, and appropriate account of the client's condition to the client or to those responsible for the care of the client;

(e) shall make assessments, recommendations, reports, and diagnostic or evaluative statements based on information and techniques (including personal interviews of the individual when appropriate) sufficient to provide appropriate substantiation for their findings; and

(f) shall refrain from releasing raw test results or raw data to persons, other than to clients as appropriate, who are not qualified to use such information.

(5) Regarding education, a licensee:

(a) shall present behavior analysis information accurately and with a reasonable degree of objectivity, when engaged in teaching or training;

(b) shall not teach the use of techniques or procedures that require specialized training, licensure, or expertise, to individuals who lack the prerequisite training, legal scope of practice, or expertise;

(c) shall establish an appropriate process for providing feedback to students and supervisees in academic and supervisory relationships; and

(d) shall evaluate students and supervisees on the basis of their actual performance on relevant and established program requirements.

(6) Regarding supervision, a licensee:

- (a) shall adequately supervise auxiliary staff to ensure that a client's mental or physical health or safety is not at risk;
- (b) shall clearly identify any behavior technician for clients, third-party payers, and other entities when supervising a behavior technician;
- (c) shall delegate to their employees, supervisees, and research assistants only those responsibilities that such persons can reasonably be expected to perform competently on the basis of their education, training, or experience, either independently or with the level of supervision being provided;
- (d) shall not commence supervision of a person practicing psychology;
- (e) shall, upon board approval of the supervision, reasonably and adequately supervise persons practicing behavior analysis, so as to ensure the client's mental and physical health and safety are not at risk and that each supervisee complies with all applicable standards, rules, and statutes; and
- (f) shall strictly comply with the rules governing supervision.

(7) Regarding forensic activities, a licensee shall not render a formal professional opinion about an individual without direct and substantial professional contact with or a formal assessment of that person.

(8) The violation of any statute, rule, or standard applicable to the licensee in relation to the licensee's practice of behavior analysis is unprofessional conduct.

(History: 37-1-131, 37-1-319, 37-17-406, MCA; IMP, 37-1-131, 37-1-316, 37-17-402, 37-17-405, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17.)

Rules 24.189.929 and 24.189.930 reserved

24.189.931 RELATIONSHIPS (1) Regarding multiple relationships, a licensee:

(a) shall not undertake or continue a defined professional relationship with a client when the objectivity of the licensee is impaired because of present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative, or legal relationships with the client or a relevant person directly associated with or related to the client.

(2) Regarding sexual relationships, a licensee:

(a) shall not accept as clients persons with whom they have engaged in sexual intimacies;

(b) shall not engage in sexual intimacies with current clients;

(c) shall not engage in sexual intimacies with a former client for at least two years after termination of professional services. The licensee who engages in such activity after the two years following termination of professional services bears the burden of demonstrating that there has been no exploitation, in light of all relevant factors, including:

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

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

(iii) the circumstances of termination;

(iv) the client's personal history;

(v) the client's current mental status;

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

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

(3) Regarding bartering, the licensee:

(a) shall not participate in bartering if the relationship is clinically contraindicated or exploitative;

(b) shall not engage in bartering unless fair market value is used for goods or services bartered. (History: 37-1-131, 37-1-319, 37-17-406, MCA; IMP, 37-1-131, 37-1-316, 37-17-402, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17.)

Rules 24.189.932 and 24.189.933 reserved

24.189.934 PRIVILEGED INFORMATION AND RECORDS

(1) Regarding privileged information and records, the licensee:

- (a) shall not reproduce or describe behavior analysis tests or assessment procedures in popular publications, lectures, or public presentations in ways that might invalidate them;
- (b) shall, in rendering professional services to an individual client, or services billed to a third-party payer, maintain professional records that include:
 - (i) the presenting problem(s) or purpose of diagnosis;
 - (ii) the fee arrangement;
 - (iii) the date and substance of each billed contact or service;
 - (iv) any test results or other evaluative results obtained and any basic test data from which they were derived;
 - (v) notation and results of formal consults with other providers; and
 - (vi) a copy of all test or other evaluative reports prepared as part of the defined professional relationship;
- (c) shall administer, store, and dispose of written, electronic, and other records in such a manner as to ensure their confidentiality;
- (d) shall not withhold records under their control that are requested and imminently needed for a client's treatment solely because payment has not been received, except as otherwise provided by law;
- (e) shall continue to treat as confidential information regarding a client after the defined professional relationship between the behavior analyst and the client has ceased.

(2) Licensees shall maintain and not destroy client records:

- (a) for a period of seven years after the client reaches the age of 18, for clients who are minors; and
- (b) for a period of seven years after the last professional client contact, including a release of records, for clients who are adults. (History: 37-1-131, 37-1-319, 37-17-406, MCA; IMP, 37-1-131, 37-1-316, 37-17-402, 37-17-406, MCA; NEW, 2017 MAR p. 1656, Eff. 9/23/17.)

Subchapters 10 through 20 reserved

Subchapter 21

Continuing Education

24.189.2101 CONTINUING EDUCATION REQUIREMENTS (1) In accordance with 37-17-202, MCA, the Montana Board of Psychologists establishes requirements for the continuing education of licensed psychologists.

(2) The board/staff will not preapprove continuing education programs or sponsors. Qualifying criteria for continuing education are specified in these rules. It is the responsibility of the licensee to select quality programs that contribute to his/her knowledge and competence which also meet these qualifications.

(3) A continuing education activity must meet the following criteria:

(a) The activity must have significant intellectual or practical content. The activity must deal primarily with substantive psychological issues, psychological skills or laws or rules and ethical standards related to one's role as a psychologist. In addition, the board may accept continuing education activities from other professional groups or academic disciplines if the psychologist demonstrates that the activity is substantially related to his or her role as a psychologist.

(b) The activity itself must be conducted by an individual or group qualified by practical or academic experience.

(c) All CE must be documented to show proof of completion. Documentation must include the following information:

- (i) licensee name;
- (ii) course title and description of content;
- (iii) presenter or sponsor;
- (iv) course date(s); and
- (v) number of CE hours earned.

(d) The licensee is responsible for maintaining CE records for three years following the renewal cycle reporting period and for making those records available upon request. (History: 37-1-319, MCA; IMP, 37-1-306, 37-1-319, MCA; NEW, 1992 MAR p. 558, Eff. 3/27/92; AMD, 1997 MAR p. 538, Eff. 3/25/97; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2014 MAR p. 2459, Eff. 10/10/14; AMD, 2021 MAR p. 1058, Eff. 8/28/21.)

Rules 24.189.2102 and 24.189.2103 reserved

24.189.2104 CONTINUING EDUCATION PROGRAM OPTIONS

(1) Acceptable continuing education for psychologists may be chosen from (a) through (e).

(a) Acceptable continuing education includes:

(i) Any American Psychological Association-approved, any Montana Psychological Association-approved, or a PESI-approved continuing education activity or program for psychologists that meets ARM 24.189.2101(3)(a) through (c) will qualify for continuing education credit.

(ii) Credit may be given for workshops and other educational activities offered at professional conferences and conventions sponsored by the American Psychological Association and its affiliates if the content of such presentations meets the standards established by ARM 24.189.2101(3)(a) through (c). General business meetings do not qualify.

(iii) Any other specific activities, i.e. audio tapes or conference/workshops, meeting requirements of ARM 24.189.2101(3)(a) through (c) will qualify for continuing education credit.

(b) No more than 30 continuing education units meeting the following criteria:

(i) Documentation of successful completion of an advanced credential requiring extensive preparation of work samples, research, oral examination, e.g. ABPP.

(ii) Study groups may qualify for continuing education if:

(A) The psychologist submits with the continuing education form an explanation of the applicability of the study topic to the psychologist's practice in order to demonstrate the relevance of the study or case material and to substantiate that the material meets the requirements of continuing education.

(B) The psychologist provides the specific date and time for each study group session submitted for continuing education credit.

(C) At least three other psychologists or mental health professionals attend the activity.

(D) Minutes are kept of each study group meeting and are available to the Board of Psychologists upon request. The minutes shall include the names of the participants present, the subject matter, and references which relate to any written material utilized. Each such group shall designate an individual to serve as the recorder of the minutes. The name of the recorder shall be noted on the continuing education form.

(iii) Formally organized classes, with preassigned credit and attendance verifiable by transcript, offered under the auspices of regionally accredited institutions of higher education that meet criteria specified in ARM 24.189.2101(3)(a) and (b).

(iv) The following professional activities that meet criteria specified in ARM 24.189.2101(3)(a) and (b) may be submitted in fulfillment of no more than 30 continuing education units:

- (A) Initial presentation of a meeting paper or poster presentation or workshop in the field of psychology based on thorough review of the literature, and including theoretical ideas, with application to clinical work. One hour of continuing education will be credited for each hour of presentation. In addition, one hour of continuing education will be credited for preparation for each hour of presentation;
- (B) Publication of a review paper or a formal theoretical paper in a refereed journal in the field of psychology;
- (C) Carrying out a research project reported in publishable form;
- (D) Teaching a formally organized class in psychology or related subjects which meets the criteria specified in ARM 24.189.2101(3)(a);
- (E) Formal case presentation in a group setting (e.g. grand rounds), properly documented and conducted by appropriately credentialed and/or licensed professionals.

(c) No more than 15 continuing education units of personal growth activities that meet the following criteria:

- (i) individual psychotherapy that:
 - (A) is obtained in a formal setting.
 - (B) is conducted by a certified or licensed professional.
 - (C) has a fee charged for services rendered.
 - (D) is documented by stating the number of contact hours on the professional's letterhead.
- (ii) group therapy that:
 - (A) has group meetings in a formal setting.
 - (B) has a qualified professional for a facilitator.
 - (C) has a fee charged for services rendered.
 - (D) is documented by stating the number of contact hours on the professional's letterhead.
- (iii) Specific supervision that:
 - (A) is obtained in a formal setting.
 - (B) is conducted by a certified or licensed professional.
 - (C) has a fee charged for services rendered.
 - (D) is documented by stating the number of contact hours on the professional's letterhead.

(d) No more than ten continuing education units may be granted for courses relative to the management of a professional practice.

(e) Psychologist board members may receive continuing education credit of up to eight hours per calendar year for their attendance of board meetings. (History: 37-1-319, 37-17-202, MCA; IMP, 37-1-306, 37-17-202, MCA; NEW, 1992 MAR p. 558, Eff. 3/27/92; AMD, 1997 MAR p. 538, Eff. 3/25/97; AMD, 1998 MAR p. 927, Eff. 4/17/98; AMD, 1999 MAR p. 211, Eff. 1/29/99; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2010 MAR p. 1508, Eff. 6/25/10; AMD, 2014 MAR p. 2459, Eff. 10/10/14; AMD, 2017 MAR p. 1654, Eff. 9/23/17; AMD, 2017 MAR p. 1656, Eff. 9/23/17.)

Rules 24.189.2105 and 24.189.2106 reserved

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ADMINISTRATIVE RULES OF MONTANA

9/30/17

24-22213

NOT AN OFFICIAL VERSION

24.189.2107 CONTINUING EDUCATION REPORTING AND AUDIT

(1) One continuing education credit will be granted for each hour of participation in the continuing education activity.

(2) Licensed psychologists must earn, within a two-year renewal cycle, a minimum of 40 continuing education credits, of which two hours must be in ethics and one hour must be in suicide prevention, every two years. The two-year cycle will end on the renewal date set by ARM 24.101.413 in odd-numbered years. Continuing education credits may not be carried over from one two-year cycle to another.

(a) No continuing education is required for licensees licensed less than one full calendar year on their first reporting date. Licensees licensed less than two full calendar years on the first reporting date shall submit 20 hours of continuing education, including one hour in ethics and one hour in suicide prevention.

(b) All licensed psychologists shall affirm an understanding of their recurring duty to comply with CE requirements as a part of license renewal.

(c) The department may randomly audit up to 50 percent of renewed licensees.

(d) No continuing education programs used to complete delinquent continuing education plan requirements for licensure can be used to meet the continuing education requirements for the next continuing education reporting period.

(e) Licensees found to be in noncompliance with continuing education requirements may be subject to administrative suspension.

(f) A licensee may request an exemption from continuing education requirements due to hardship. Requests will be considered by the board.

(g) Psychologists obtaining postdoctoral supervised experience are not required to earn continuing education credits during the period of time they are supervised. (History: 37-1-131, 37-1-319, MCA; IMP, 37-1-131, 37-1-141, 37-1-306, 37-1-319, MCA; NEW, 1992 MAR p. 558, Eff. 3/27/92; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2005 MAR p. 2464, Eff. 12/9/05; AMD, 2006 MAR p. 1583, Eff. 7/1/06; AMD, 2010 MAR p. 1508, Eff. 6/25/10; AMD, 2014 MAR p. 2459, Eff. 10/10/14; AMD, 2017 MAR p. 1654, Eff. 9/23/17; AMD, 2020 MAR p. 45, Eff. 1/18/20; AMD, 2021 MAR p. 1058, Eff. 8/28/21.)

Subchapter 22 reserved

Subchapter 23

Unprofessional Conduct

24.189.2301 REPRESENTATION OF SELF AND SERVICES (1) In representation of self or services, a licensee:

- (a) shall display the psychologist's current license to practice psychology on the premises of the professional office;
- (b) shall not represent him/herself as a psychologist or psychological resident while the practitioner's license is currently suspended, revoked or not renewed;
- (c) shall not use fraud, misrepresentation or deception in obtaining a psychology license, in passing a psychology licensing examination, in assisting another to obtain a psychology license or to pass a psychology licensing examination;
- (d) shall not aid or abet an unlicensed person in misrepresenting the person's professional credentials or in practicing when a license is required, or otherwise illegally engaging in the practice of psychology;
- (e) shall not promote the use of psychological assessment techniques by unqualified persons;
- (f) shall not use fraud, misrepresentation or deception in billing clients or third party payors, in providing psychological services, in reporting the results of psychological evaluations or services or in conducting any other activity related to the practice of psychology.

(2) In regard to advertising, a licensee or license applicant:

- (a) shall not engage in advertising that is false, fraudulent or misleading;
- (b) shall identify paid advertisements as such, unless it is already apparent from the context;
- (c) shall not solicit testimonials from current psychotherapy clients, patients or other persons who, because of their particular circumstances, are vulnerable to undue influence;
- (d) shall not induce a client to solicit business on behalf of the psychologist;
- (e) shall take professional responsibility when engaging others to create or place public statements that promote their professional practice, products or activities.

(3) In regard to representation in the public arena, a licensee or license applicant:

- (a) shall make reasonable efforts to prevent others whom they do not control (such as employers, publishers, sponsors, organizational clients and representatives of the print or broadcast media) from making deceptive statements concerning psychologists' practice or professional or scientific activities;
- (b) shall make reasonable efforts to correct deceptive statements about their work or misuse of their work made by others;
- (c) shall not compensate the press (radio, television or other communication media), or their employees, in return for publicity or a news item;

(d) shall not make public statements that are false, deceptive, misleading or fraudulent (either by omission or commission) concerning licensee's research, practice or concerning other work activities or those of persons or organizations with which they are affiliated;

(i) As examples (and not in limitation) of this rule, psychologists shall not make false or deceptive statements concerning their:

(A) training, experience or competence;

(B) academic degrees;

(C) credentials;

(D) institutional or association affiliations;

(E) services;

(F) the scientific or clinical basis for, or results or degree of, success of their services;

(G) fees; or

(H) publications or research findings;

(e) shall, when providing advice or comment when a defined professional relationship does not exist, take reasonable precautions to ensure that the statements are based on appropriate psychological literature and practice.

Furthermore, the psychologist shall take reasonable precautions to ensure that the recipient of such information does not infer that a defined professional relationship has been established with the psychologist personally;

(f) shall not engage, directly or through agents, in uninvited in-person solicitation of business from actual or potential psychotherapy patients or clients or other persons who, because of their particular circumstances, are vulnerable to undue influence. However, this does not preclude attempting to implement appropriate collateral contacts with significant others for the purpose of benefiting an already engaged therapy patient;

(g) shall not associate with, or permit the psychologist's name to be used in connection with, any services or products in such a way as to misrepresent the services or products, the degree of the psychologist's responsibility for the services or products, or the nature of the psychologist's association with the services or products. (History: 37-1-131, 37-1-319, 37-17-202, MCA; IMP, 37-1-131, 37-1-316, 37-17-101, [Chap. 43, L. of 2021], MCA; NEW, 1998 MAR p. 927, Eff. 4/17/98; AMD, 2004 MAR p. 1474, Eff. 7/2/04; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2021 MAR p. 1058, Eff. 8/28/21.)

Rules 24.189.2302 through 24.189.2304 reserved

24.189.2305 PRACTICE OF PSYCHOLOGY (1) In regard to conduct in the integrity of the profession, a licensee:

- (a) shall not create an unreasonable risk of physical or mental harm or serious financial loss to the client, such as malpractice or an act or acts below the standard of care for psychologists, whether actual physical or mental injury or harm was suffered by the client;
- (b) shall not provide any services in the practice of psychology except those services within the scope of the licensee's education, training, supervised experience or appropriate professional experience;
- (c) shall not participate in activities in which it appears likely that the psychologist's skills or data will be misused by others, unless corrective mechanisms are available.

(2) In regard to disclosure and obligation to report, a licensee:

- (a) shall disclose fees and confidentiality prior to initiating the defined professional relationship with clients, except in the case of a clinical emergency. Upon initiating the defined professional relationship there must be a discussion of the nature and anticipated course of contracted services, limitations of confidentiality and modalities of communication by which treatment is provided, and mandated reporting situations. When services rendered involve more than one interested party, the psychologist shall clarify the dimensions of confidentiality and professional responsibility to all participating parties;
- (b) who has substantial reason to believe that there has been a violation of the statutes or rules of the board, shall so inform the board in writing. However, when the information regarding such violation is obtained in a defined professional relationship with a client, the psychologist shall report it only with the written permission of the client;
- (c) shall, when initiating conjoint services to several persons who have a relationship (e.g. familial, communal or business), attempt to clarify which of the individuals are clients and the relationship the psychologist will have with each person. This clarification includes the role of the psychologist and the probable uses of the services provided or the information obtained;
- (d) shall keep the client fully informed as to the purpose and nature of any evaluation, treatment or other procedures, and of the client's right to freedom of choice regarding services provided;
- (e) shall not undertake research on human subjects without a study of the potential effects of the research on the subjects, and shall not undertake research on human subjects without full disclosure of risks to the subjects.

(3) In regard to judicial or disciplinary situations, a licensee or license applicant:

- (a) shall cooperate with an investigation by:
 - (i) furnishing any papers or documents in the possession and under the control of the licensee, as per the appropriate health care records act;
 - (ii) furnishing in writing a full and complete explanation covering the matter contained in the complaint; and
 - (iii) responding to subpoenas issued by the board or the department, whether or not the recipient of the subpoena is the respondent in the proceedings.
- (b) a psychologist shall not offer, undertake or agree to cure or treat disease or affliction by a secret method, procedure or treatment; nor shall the psychologist treat, operate or prescribe for any health condition by a method, means or procedure which the licensee refuses to divulge upon demand from the board.

(4) Psychologists may only operate within their areas of competence and shall seek appropriate supervision when necessary.

(5) A psychologist must understand the construction/administration/interpretation of the test procedures the psychologist employs.

(6) Psychologists must maintain current knowledge of scientific, professional, and legal developments within their area of claimed competence and use that knowledge, consistent with accepted clinical and scientific standards, in selecting current data collection methods and procedures for an evaluation.

(7) The psychologist shall be aware of personal and societal biases and engage in nondiscriminatory practice. The psychologist shall be aware of how biases regarding age, gender, race, ethnicity, national origin, religion, sexual orientation, disability, language, culture, and socioeconomic status may interfere with an objective evaluation and recommendations, and shall strive to overcome any such biases or withdraw from the evaluation.

(8) Psychologists shall recognize and state any limitations of their assessments and reports.

(9) Psychologists shall provide judges, attorneys, and other appropriate parties with access to the results of the evaluation, but make reasonable efforts to avoid the release of notes, test booklets, structured interview protocols, and raw test data to persons untrained in their interpretation. If legally required to release such information to untrained persons, psychologists shall first offer alternative steps such as providing the information in the form of a report, or releasing the information to another psychologist who is qualified in the interpretation of the data and who will discuss or provide written interpretations of the data with the person(s) who are seeking the information.

(10) Psychologists shall avoid dual relationships and other situations which might produce a conflict of interest.

(11) Psychologists shall inform all participants, including clients, as to the limits of confidentiality which can be expected with regard to any information they may provide to the psychologist over the course of the evaluation. This includes the limits of confidentiality applicable to the general practice of psychology, such as a duty to warn in instances of possible imminent danger to a participant or to others, or legal obligations to report suspected child or elder abuse.

(12) Psychologists shall not commit an act of sexual abuse, sexual misconduct, or sexual exploitation, whether or not related to the licensee's practice of psychology. (History: 37-1-131, 37-1-319, 37-17-202, MCA; IMP, 37-1-131, 37-1-316, 37-1-319, 37-17-101, MCA; NEW, 1998 MAR p. 927, Eff. 4/17/98; AMD, 2004 MAR p. 1474, Eff. 7/2/04; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2017 MAR p. 1654, Eff. 9/23/17.)

Rules 24.189.2306 through 24.189.2308 reserved

24.189.2309 PROFESSIONAL RESPONSIBILITY (1) In regard to client welfare, a licensee:

- (a) shall attempt to terminate a clinical or consulting relationship when it is reasonably clear to the psychologist that the client is not benefiting from it or is being harmed by continued service;
- (b) shall not use relationships with clients to promote commercial enterprises of any kind for personal gain or the profit of an agency;
- (c) shall not bill for services not directly performed for a client, unless there is an explicit agreement that permits this type of billing;
- (d) shall take reasonable steps to avoid harming the psychologist's clients with whom there is a defined professional relationship, and to minimize harm where it is foreseeable and unavoidable;
- (e) shall make reasonable efforts to plan for facilitating care in the event that psychological services are interrupted by factors such as the psychologist's illness, death, unavailability, or relocation, or by the client's relocation or financial limitations;
- (f) shall, when entering into employment or contractual relationships, provide for orderly and appropriate resolution of responsibility for client care in the event the employment or contractual relationship ends, with paramount consideration given to the welfare of the client;
- (g) shall make an appropriate referral of the client to another professional when requested to do so by the client;
- (h) shall continue the defined professional relationship with the client until a relationship is established with the professional person to whom the client is referred or until the relationship has been terminated by mutual agreement. In situations where referral, consultation, or other changes in the conditions of the treatment are indicated, and the client refuses referral, the psychologist shall carefully weigh the possible harm to the client, the psychologist, and the psychologist's profession that might ensue from continuing the relationship.

(2) In regard to respect for others, a licensee:

- (a) shall not exploit persons over whom they have supervisory, evaluative, or other authority such as students, supervisees, employees, research participants, or clients;
- (b) who performs interventions or administers, scores, interprets, or uses assessment techniques shall be familiar with the reliability, validation, and related standardization or outcome studies of, and proper applications and uses of, the techniques they use;

- (i) shall recognize limits to the certainty with which diagnoses, judgments, or predictions can be made about individuals;
- (ii) shall attempt to identify situations in which particular interventions or assessment techniques or norms may not be applicable or may require adjustment in administration or interpretation, because of factors such as individuals' gender, age, race, ethnicity, national origin, religion, sexual orientation, disability, language, or socioeconomic status;
- (iii) shall, when offering assessment or scoring procedures to other professionals, accurately describe the purpose, norms, validity, reliability, and applications of the procedures and any special qualifications applicable to their use;
- (iv) shall ensure, unless the nature of the relationship is clearly explained to the person being assessed in advance and precludes provision of an explanation of results, that an explanation of the results is provided using language that is reasonably understandable to the person assessed or to another legally authorized person on behalf of the client;
- (v) shall, regardless of whether the scoring and interpretation are done by the psychologist, by assistants, or by automated or other outside services, take reasonable steps to ensure that appropriate explanations of results are given and adequate provisions are made for referring and counseling individuals when needed;
- (c) when interpreting assessment results, including automated interpretations, shall take into account the various test factors and characteristics of the person being assessed that might affect psychologists' judgments or reduce the accuracy of their interpretations and indicate any significant reservations they have about the accuracy or limitations of their interpretations.

(3) In regard to conflict of interest, a licensee shall be concerned primarily with the welfare of any client involved and only secondarily with the interest of the psychologist's own professional group, when there is a conflict among professional workers.

- (4) In regard to the therapeutic relationship, a licensee:
 - (a) shall provide psychological services for the purpose of diagnosis, assessment, or treatment only in the context of a defined professional relationship. However, nothing in these rules precludes the provision of psychological services for crisis management or intervention, even in the absence of a defined professional relationship;
 - (b) shall not prepare personnel reports and recommendations based on test data secured solely by mail, unless such appraisals are an integral part of a continuing client relationship with a company;

- (i) the reports shall not be embellished with detailed analyses of the subject's personality traits, as would be appropriate only after intensive interviews with the subject;
- (ii) the reports shall not make specific recommendations as to the employment or placement of the subject, which go beyond the psychologist's knowledge of the job requirements of the company; and
- (iii) the reports shall not purport to eliminate the company's need to carry on other regular employment or personnel practices such as appraisal of the work history, checking of references, or past performance in the company;
- (c) shall not undertake or continue a defined professional relationship with a client when the psychologist is or could reasonably be expected to be impaired due to mental, emotional, physiologic, pharmacologic, or substance abuse conditions. If such a condition develops after a defined professional relationship has been initiated, the psychologist shall terminate the relationship in an appropriate manner, shall notify the client in writing of the termination, and shall assist the client in obtaining services from another professional;
- (d) shall give a truthful, understandable, and appropriate account of the client's condition to the client or to those responsible for the care of the client;
- (e) shall make assessments, recommendations, reports, and psychological, diagnostic, or evaluative statements based on information and techniques (including personal interviews of the individual when appropriate) sufficient to provide appropriate substantiation for their findings; and
- (f) shall refrain from releasing raw test results or raw data to persons, other than to clients as appropriate, who are not qualified to use such information.

(5) In regard to education, a licensee:

- (a) shall present psychological information accurately and with a reasonable degree of objectivity, when engaged in teaching or training;
- (b) shall not teach the use of techniques or procedures that require specialized training, licensure, or expertise, including, but not limited to, hypnosis, biofeedback, and projective techniques to individuals who lack the prerequisite training, legal scope of practice, or expertise;
- (c) shall establish an appropriate process for providing feedback to students and supervisees in academic and supervisory relationships; and
- (d) shall evaluate students and supervisees on the basis of their actual performance on relevant and established program requirements.

- (6) In regard to supervision, a licensee:
 - (a) shall adequately supervise auxiliary staff to ensure that the client's mental or physical health or safety is not at risk;
 - (b) shall delegate to their employees, supervisees, and research assistants only those responsibilities that such persons can reasonably be expected to perform competently on the basis of their education, training, or experience, either independently or with the level of supervision being provided;
 - (c) shall not, prior to obtaining the board's approval, commence supervision of a person practicing psychology;
 - (d) shall, upon board approval of the supervision, reasonably and adequately supervise persons practicing psychology, so as to ensure the client's mental and physical health and safety are not at risk and that each supervisee complies with all applicable standards, rules, and statutes; and
 - (e) shall strictly comply with the rules governing supervision.
- (7) In regard to forensic activities, a licensee:
 - (a) shall not render a formal professional opinion about the psychological and emotional characteristics of an individual without direct and substantial professional contact with or a formal assessment of that person, for example, about the fitness of a parent in a custody hearing.
- (8) The violation of any statute, rule, or standard applicable to the licensee in relation to the licensee's practice of psychology is unprofessional conduct. (History: 37-1-131, 37-1-319, 37-17-202, MCA; IMP, 37-1-131, 37-1-316, 37-17-101, MCA; NEW, 1998 MAR p. 927, Eff. 4/17/98; AMD, 2004 MAR p. 1474, Eff. 7/2/04; TRANS, from Commerce, 2004 MAR p. 2282; AMD, 2012 MAR p. 1041, Eff. 5/25/12.)

Rules 24.189.2310 through 24.189.2313 reserved

24.189.2314 RELATIONSHIPS (1) In regard to multiple relationships, a licensee:

(a) shall not undertake or continue a defined professional relationship with a client when the objectivity of the licensee is impaired because of present or previous familial, social, sexual, emotional, financial, supervisory, political, administrative or legal relationship with the client or a relevant person directly associated with or related to the client.

(2) In regard to sexual relationships, a licensee:

(a) shall not accept as clients persons with whom they have engaged in sexual intimacies;

(b) shall not engage in sexual intimacies with current clients;

(c) shall not engage in sexual intimacies with a former client for at least two years after termination of professional services. The licensee who engages in such activity after the two years following termination of professional services bears the burden of demonstrating that there has been no exploitation, in light of all relevant factors, including:

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

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

(iii) the circumstances of termination;

(iv) the client's personal history;

(v) the client's current mental status;

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

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

(3) In regard to bartering, the licensee:

(a) shall not participate in bartering if the relationship is clinically contraindicated or exploitative;

(b) shall not engage in bartering unless fair market value is used for goods or services bartered. (History: 37-1-131, 37-1-319, 37-17-202, MCA; IMP, 37-1-131, 37-1-316, 37-17-101, MCA; NEW, 1998 MAR p. 927, Eff. 4/17/98; AMD, 2004 MAR p. 1474, Eff. 7/2/04; TRANS, from Commerce, 2004 MAR p. 2282.)

Rules 24.189.2315 through 24.189.2317 reserved

24.189.2318 PRIVILEGED INFORMATION AND RECORDS (1) In regard to privileged information and records, the licensee:

- (a) shall not reproduce or describe psychological tests or assessment procedures in popular publications, lectures or public presentations in ways that might invalidate them;
- (b) shall, in rendering professional services to an individual client, or services billed to a third party payer, maintain professional records that include:
 - (i) the presenting problem(s) or purpose of diagnosis;
 - (ii) the fee arrangement;
 - (iii) the date and substance of each billed contact or service;
 - (iv) any test results or other evaluative results obtained and any basic test data from which they were derived;
 - (v) notation and results of formal consults with other providers; and
 - (vi) a copy of all test or other evaluative reports prepared as part of the defined professional relationship.
- (c) shall administer, store and dispose of written, electronic and other records in such a manner as to insure their confidentiality;
- (d) shall not withhold records under their control that are requested and imminently needed for a client's treatment solely because payment has not been received, except as otherwise provided by law;
- (e) shall continue to treat as confidential information regarding a client after the defined professional relationship between the psychologist and the client has ceased.

(2) Licensees shall maintain and not destroy patient records:

- (a) for a period of seven years after the patient reaches the age of 18, for patients who are minors; and
- (b) for a period of seven years after the last professional patient contact, including a release of records, for patients who are adults. (History: 37-1-131, 37-1-319, 37-17-202, MCA; IMP, 37-1-131, 37-1-316, 37-17-101, MCA; NEW, 1998 MAR p. 927, Eff. 4/17/98; AMD, 2004 MAR p. 1474, Eff. 7/2/04; TRANS, from Commerce, 2004 MAR p. 2282.)

Subchapter 24

Complaint Procedures

24.189.2401 COMPLAINT PROCEDURE (REPEALED) (History: 37-17-202, MCA; IMP, 37-1-308, 37-1-309, MCA; NEW, 1997 MAR p. 538, Eff. 3/25/97; TRANS, from Commerce, 2004 MAR p. 2282; REP, 2016 MAR p. 2337, Eff. 12/10/16.)

Rules 24.189.2402 through 24.189.2404 reserved

24.189.2405 SCREENING PANEL (1) The board screening panel shall consist of three board members including two psychologist board members who have served longest on the board, and one public member who has served longest on the board. The chairman may reappoint screening panel members, or replace screening panel members as necessary at the chairman's discretion. (History: 37-17-202, MCA; IMP, 37-1-307, MCA; NEW, 1997 MAR p. 538, Eff. 3/25/97; TRANS, from Commerce, 2004 MAR p. 2282.)