

BEFORE THE BOARD OF BEHAVIORAL HEALTH
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.219.301 definitions,)
24.219.501, 24.219.505, 24.219.512,)
24.219.601, 24.219.605, 24.219.612,)
24.219.712, 24.219.5006,)
24.219.5007, and 24.219.5013 license)
requirements for licensed clinical)
social workers (LCSW), licensed)
master's social workers (LMSW),)
licensed baccalaureate social workers)
(LBSW), licensed clinical professional)
counselors (LCPC), licensed marriage)
and family therapists (LMFT), and)
licensed addiction counselors (LAC),)
24.219.5020 examination – LAC, and)
the repeal of 24.219.606 professional)
counselor licensure candidate)
requirements and 24.219.2101)
continuing education requirements)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
REPEAL

TO: All Concerned Persons

1. On October 20, 2021, at 9:00 a.m., a public hearing will be held via remote conferencing to consider the proposed amendment and repeal of the above-stated rules. There will be no in-person hearing. Interested parties may access the remote conferencing platform in the following ways:

- a. Join Zoom Meeting, <https://mt-gov.zoom.us/j/87547808418>
Meeting ID: 875 4780 8418, Passcode: 261255
-OR-
- b. Dial by telephone, +1 406 444 9999 or +1 646 558 8656
Meeting ID: 875 4780 8418, Passcode: 261255

The hearing will begin with a brief introduction by department staff to explain the use of the videoconference and telephonic platform. All participants will be muted except when it is their time to speak.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Board of Behavioral Health no later than 5:00 p.m., on October 13, 2021, to advise us of the nature of the accommodation that you need. Please contact Lucy Richards, Board of Behavioral Health, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394;

Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdbbh@mt.gov (board's e-mail).

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

24.219.301 DEFINITIONS (1) through (13) remain the same.

(14) "~~Gambling dependence impulse control disorder~~" or "~~gambling disorder~~" means persistent and recurrent problematic gambling behavior leading to clinically significant impairment or distress.

(15) through (29) remain the same.

AUTH: 37-1-131, 37-22-201, 37-35-103, 37-38-202, MCA

IMP: 37-1-131, 37-22-102, 37-22-103, 37-22-201, 37-22-313, 37-23-102, 37-23-202, 37-23-213, 37-35-102, 37-35-103, 37-35-202, 37-37-102, 37-37-205, 37-38-102, 37-38-202, MCA

REASON: The 2021 Montana Legislature enacted Chapter 50, Laws of 2021 (Senate Bill 102), an act generally revising licensure requirements for social workers and professional counselor applicants. The bill was signed by the Governor on March 2, 2021, and became effective July 1, 2021.

Senate Bill 102 amended the definition of "licensed addiction counselor" in 37-35-102, MCA, to utilize the term "gambling disorder" as currently used in the DSM-V. Gambling dependence impulse control disorder is no longer a recognized clinical term. The board is amending this rule to implement the bill and align with the statutory change. This proposed amendment will not alter the scope of practice for LACs or LAC candidates.

24.219.501 LCSW, LMSW, AND LBSW LICENSE REQUIREMENTS – ORIGINAL APPLICANTS (1) remains the same.

(2) Applicants for LCSW licensure must meet the following requirements:

(a) have a degree that meets the requirements in 37-22-301, MCA; which include:

(i) a program accredited by the Council on Social Work Education (CSWE);

or

(ii) a program currently in CSWE candidacy status;

(b) and (c) remain the same.

(d) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-301, MCA, within six months of the application date; and

~~(e) provide reference letters that meet the requirements in 37-22-301, MCA;~~
and

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

(3) Applicants for LMSW licensure must meet the following requirements:

(a) through (c) remain the same.

(d) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-308, MCA, within six months of the application date; and

- ~~(e) provide reference letters that meet the requirements in 37-22-308, MCA;~~
and
(f) remains the same but is renumbered (e).
(4) Applicants for LBSW licensure must meet the following requirements:
(a) through (c) remain the same.
(d) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-308, MCA, within six months of the application date; and
~~(e) provide reference letters that meet the requirements in 37-22-308, MCA;~~
and
(f) remains the same but is renumbered (e).
(5) remains the same.

AUTH: 37-1-131, 37-22-201, 37-22-307, 37-22-308, MCA

IMP: 37-1-131, 37-22-301, 37-22-307, 37-22-308, MCA

REASON: Based on public input in the last year regarding the ongoing emergence of new social work programs, staff and the board began researching the appropriateness of allowing education programs in CSWE candidacy status to meet licensing education requirements in addition to those that are already CSWE approved. The accreditation process takes three years. To achieve candidacy status, a program must be initially evaluated by CSWE to demonstrate the program satisfies the accreditation standards. CSWE monitors the program during the candidacy process for ongoing compliance determining whether or not to grant full accreditation. Based on this review process and the fact that over half the states currently accept education obtained from programs in candidacy status, the board determined it is reasonably necessary to amend (2)(a) to allow greater license portability and avoid unnecessarily restricting entry into the social work profession while still providing adequate public protection.

Additionally, Senate Bill 102 (effective July 1, 2021) removed the statutory requirement that LCSW, LCSW candidate, LMSW, LMSW candidate, LBSW, and LBSW candidate applicants submit reference letters. The board is amending this rule and ARM 24.219.505 and 24.219.512 to align with the statutory changes and further facilitate current standardized department application and renewal procedures.

24.219.505 LCSW, LMSW, AND LBSW CANDIDATE LICENSE REQUIREMENTS (1) and (2) remain the same.

- (3) In addition to the appropriate education requirements in (2), applicants for LCSW, LMSW, and LBSW candidate licensure must:
(a) remains the same.
(b) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-313, MCA, within six months of the application date; and
~~(c) provide reference letters that meet the requirements in 37-22-301, 37-22-307, or 37-22-308, MCA; and~~
(d) remains the same but is renumbered (c).
(4) remains the same.

AUTH: 37-1-131, 37-22-201, 37-22-307, 37-22-308, MCA
IMP: 37-1-131, 37-22-307, 37-22-308, 37-22-313, MCA

REASON: See REASON for ARM 24.219.501.

24.219.512 LCSW, LMSW, AND LBSW LICENSE REQUIREMENTS – OUT-OF-STATE APPLICANTS (1) remains the same.

(2) Applicants for LCSW and LMSW licensure must:

(a) hold a current, active license in good standing in another state or jurisdiction. At the time of application, the standards of that state or jurisdiction must be substantially equivalent to Montana standards. If the degree requirement from that state or jurisdiction is not substantially equivalent to Montana's requirement the applicant must have a master's degree in social work from an accredited institution with a minimum of 48 semester or 72 quarter credits and have completed five years of post-degree experience in social work in addition to the supervised work experience;

(b) remains the same.

(c) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-301, ~~37-22-307~~, or 37-22-308, MCA, within six months of the application date; and

~~(d) provide reference letters that meet the requirements in 37-22-301, 37-22-307, or 37-22-308, MCA; and~~

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

(3) Applicants for LBSW licensure must:

(a) hold a current, active license in good standing in another state or jurisdiction. If the degree requirement from that state or jurisdiction is not substantially equivalent to Montana's requirement the applicant must have a baccalaureate degree in social work from an accredited institution and have completed three years of post-degree experience in social work in addition to the supervised work experience;

(b) have passed an examination as described in ARM 24.219.502 or a similar examination per 37-22-301, MCA;

(c) have completed a Federal Bureau of Investigation fingerprint background check per 37-22-307, MCA, within six months of the application date; and

(d) provide verification of any professional license(s) the applicant has ever held in any state or jurisdiction.

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

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

IMP: 37-1-131, 37-1-304, 37-22-301, 37-22-307, 37-22-308, MCA

REASON: The 2021 Montana Legislature enacted Chapter 113, Laws of 2021 (House Bill 177), an act revising licensure requirements for several professions licensed by the board by providing alternate education paths. The bill was signed by the Governor on March 31, 2021, and becomes effective October 1, 2021.

House Bill 177 requires the board establish rules to allow for equitable experience as a professional to count toward education requirements. The board is

amending this rule and ARM 24.219.712 and 24.219.5007 to allow individuals who are licensed in other jurisdictions to qualify for Montana licensure when having degrees with fewer credit requirements or when the degree requirements of the current licensure state are not substantially equivalent to Montana's. These amendments will allow for license portability since professional experience in social work, marriage and family therapy, and addiction counseling for licensed and practicing professionals provides the credentials necessary to safely practice on the public. The proposed degree and experience requirements are consistent with standards in other jurisdictions with similar licensure paths.

See REASON for ARM 24.219.501 for changes to (2)(d).

24.219.601 LCPC LICENSE REQUIREMENTS – ORIGINAL APPLICANTS

(1) remains the same.

(2) Applicants must ~~meet the following requirements~~ have a degree that is primarily counseling in nature from:

(a) ~~have a degree from an a Council for Accreditation of Counseling and Related Educational Programs (CACREP)-accredited program that is at least 60 semester credits institution that meets the requirements in 37-23-202(1)(a) or (2), MCA . If the degree program is not CACREP-accredited, the program must include completion of Council for Accreditation of Counseling and Related Educational Programs (CACREP) core competencies; or~~

(b) an accredited institution and a program that is at least 60 semester credits or 90 quarter credits and includes the CACREP core competencies.

(3) In addition to the degree requirements in (2):

~~(i) (a) the degree can only have a maximum of 12 post-baccalaureate graduate semester (18 quarter) credits or up to 20 semester (30 quarter) credits of a completed graduate counseling degree transferred from other institutions or programs; and~~

~~(ii) (b) credits earned during the degree program that were obtained more than six years prior to the date of graduation do not count toward the education requirements in this rule and 37-23-202(1) or (2), MCA;_~~

(4) In addition to the degree requirements in (2) and (3), applicants must:

~~(b) through (e) remain the same but are renumbered (a) through (d).~~

~~(3) remains the same but is renumbered (5).~~

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

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

REASON: Senate Bill 102 (2021) provided the board rulemaking authority to establish the degree requirements for LCPCs and LCPC candidates in administrative rule as opposed to statute. The board is implementing the bill by shifting the credit requirements from 37-23-202, MCA, to this rule and to ARM 24.219.605. The 60 semester or 90 quarter credit minimums are retained so there is no change to the education requirements for applicants not currently licensed in another jurisdiction.

24.219.605 LCPC CANDIDATE LICENSE REQUIREMENTS (1) remains the same.

(2) Applicants must ~~meet the following requirements~~ have a degree that is primarily counseling in nature from:

~~(a) have a degree from an a CACREP-accredited program that is at least 60 semester credits institution that meets the requirements in 37-23-202(1)(a) or (2), MCA. If the degree program is not CACREP-accredited, the program must include completion of Council for Accreditation of Counseling and Related Educational Programs (CACREP) core competencies; or~~

(b) an accredited institution and a program that is at least 60 semester credits or 90 quarter credits and includes the CACREP core competencies.

(3) In addition to the degree requirements in (2):

(i) remains the same but is renumbered (a).

~~(ii) (b) credits earned during the degree program that were obtained more than six years prior to the date of graduation do not count toward the education requirements in this rule and 37-23-202(1) or (2), MCA;~~

(4) In addition to the degree requirements in (2) and (3), applicants must:

~~(b) through (d) remain the same but are renumbered (a) through (c).~~

~~(3) remains the same but is renumbered (5).~~

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

IMP: 37-1-131, 37-23-213, MCA

24.219.612 LCPC LICENSE REQUIREMENTS – OUT-OF-STATE APPLICANTS (1) remains the same.

(2) Applicants must:

(a) remains the same.

~~(b) have a degree that meets the requirements in 37-23-202(1)(a) or (2), MCA;~~

(c) through (f) remain the same but are renumbered (b) through (e).

(3) remains the same.

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

IMP: 37-1-131, 37-1-304, 37-23-202, MCA

REASON: The board determined it is reasonably necessary to strike the degree language from (2)(b) regarding out-of-state LCPC applicants as none of the other board license types specify required degrees in their rules on out-of-state applicants. The degree requirement for LCPC licensure remains in statute at 37-23-202, MCA, with minimum credit requirements in ARM 24.219.601 to align with Senate Bill 102 changes. Licensure standards for out-of-state LCPC applicants will continue to be compared to Montana's for substantial equivalency.

24.219.712 LMFT LICENSES – OUT-OF-STATE APPLICANTS (1) remains the same.

(2) Applicants must:

(a) hold a current, active license in good standing in another state or jurisdiction to practice marriage and family therapy under a scope of practice recognized in Montana. ~~At the time of application, the standards of that state or jurisdiction must be substantially equivalent to Montana standards~~ If the degree requirement from that state or jurisdiction is not substantially equivalent to Montana's requirement the applicant must have a master's degree in marriage and family counseling from an accredited institution with a minimum of 48 semester or 72 quarter credits and have completed five years of post-degree experience in marriage and family therapy in addition to the supervised work experience;

(b) through (3) remain the same.

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

IMP: 37-1-131, 37-1-304, 37-37-201, MCA

REASON: See REASON for ARM 24.219.512.

24.219.5006 LAC LICENSE REQUIREMENTS – ORIGINAL APPLICANTS

(1) remains the same.

(2) Applicants must meet the following education requirements:

(a) have a degree or certificate that meets the requirements in ~~37-35-202(2)(a) or (b), MCA. A "comparable" degree is defined in 37-35-202(9)~~ 37-35-202, MCA; and

(b) have completed 330 contact hours of training in addiction studies completed either in whole or in part of the degree or certificate in (a). If not all 330 required hours were completed as part of the degree, then the applicant can complete those outside of the degree or certificate ~~in (a)~~. The 330 hours must be in the following areas:

(i) through (4) remain the same.

AUTH: 37-1-131, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-35-103, 37-35-202, MCA

REASON: The 2021 Montana Legislature enacted Chapter 299, Laws of 2021 (Senate Bill 166), an act revising licensure and education requirements for addiction counselors and addiction counselor candidates. The bill was signed by the Governor on April 28, 2021, and becomes effective October 1, 2021.

Senate Bill 166 updates the education requirements for LACs and LAC candidates to remove barriers to initial licensure by allowing for additional types of degrees and methods to obtain relevant addiction counseling college-level education which are consistent with national standards. All degree requirements remain in statute, but it is reasonably necessary to amend this rule to conform with the statutory language and citations.

24.219.5007 LAC LICENSE REQUIREMENTS – OUT-OF-STATE APPLICANTS (1) remains the same.

(2) Applicants must:

(a) hold a current, active license in good standing in another state or jurisdiction to practice addiction counseling. ~~At the time of application, the standards of that state or jurisdiction must be substantially equivalent to Montana standards;~~

(i) If the degree requirement from that state or jurisdiction is not substantially equivalent to Montana's requirement the applicant must have completed five years of additional post-degree work experience in a qualified treatment program as described in ARM 24.219.5010 in addition to the supervised work experience;

(ii) If the examination requirement from that state or jurisdiction is not substantially equivalent to Montana's requirement the applicant is not required to pass an examination as required in ARM 24.219.5020 if the applicant has five years of additional post-degree work experience in a qualified treatment program as described in ARM 24.219.5010;

(b) through (3) remain the same.

AUTH: 37-1-131, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-1-304, 37-35-103, 37-35-202, MCA

REASON: See REASON for ARM 24.219.512.

24.219.5013 LAC CANDIDATE LICENSE REQUIREMENTS (1) remains the same.

(2) Applicants for LAC candidate must meet the following education requirements:

(a) have a degree or certificate that meets the requirements in ~~37-35-202(2)(a) or (b), MCA. A "comparable" degree is defined in 37-35-202(9)~~ 37-35-202, MCA; and

(b) have completed 330 contact hours of training in addiction studies completed either in whole or in part of the degree or certificate in (a). If not all 330 required hours were completed as part of the degree, then the applicant can complete those hours outside of the degree or certificate ~~in (a)~~. The 330 hours must be in the following areas:

(i) through (4) remain the same.

AUTH: 37-1-131, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-35-103, 37-35-202, MCA

REASON: See REASON for ARM 24.219.5006.

24.219.5020 EXAMINATION – LAC (1) remains the same.

(2) Individuals who have not already passed an approved examination or do not have experience that counts for the exam as described in ARM 24.219.5007(2)(a)(ii) can be approved by department staff to register for an examination upon:

(a) through (3) remain the same.

AUTH: 37-1-131, 37-35-103, 37-35-202, MCA

IMP: 37-1-131, 37-35-103, 37-35-202, MCA

REASON: The board is amending this rule to align with changes being proposed in ARM 24.219.5007.

4. The rules proposed to be repealed are as follows:

24.219.606 PROFESSIONAL COUNSELOR LICENSURE CANDIDATE REQUIREMENTS

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

IMP: 37-1-131, 37-23-213, MCA

REASON: The board is repealing this rule as unnecessary as all relevant provisions were moved into ARM 24.219.423 in 2019 to consolidate changes of supervision for all license types. The board inadvertently missed repealing the rule at that time.

24.219.2101 CONTINUING EDUCATION REQUIREMENTS

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

IMP: 37-1-131, 37-1-306, 37-1-319, 37-1-321, 37-22-201, MCA

REASON: The board is repealing this rule as unnecessary as all relevant provisions were moved into ARM 24.219.435 in 2020 to consolidate continuing education requirements for all license types. The board inadvertently missed repealing the rule at that time.

5. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Board of Behavioral Health, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdbbh@mt.gov, and must be received no later than 5:00 p.m., October 22, 2021.

6. An electronic copy of this notice of public hearing is available at <http://boards.bsd.dli.mt.gov/bbh> (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site do not excuse late submission of comments.

7. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent or delivered to the Board of Behavioral Health, 301 South Park Avenue, P.O. Box

200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdbbh@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. Regarding House Bill 177, the primary bill sponsor was contacted on July 21, 2021, by telephone. Regarding Senate Bill 102, the primary bill sponsor was contacted on July 23, 2021, by telephone. Regarding Senate Bill 166, the primary bill sponsor was contacted on July 23, 2021, by telephone.

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.219.301, 24.219.501, 24.219.505, 24.219.512, 24.219.601, 24.219.605, 24.219.612, 24.219.712, 24.219.5006, 24.219.5007, 24.219.5013, and 24.219.5020 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.219.606 and 24.219.2101 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Behavioral Health, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; facsimile (406) 841-2305; or to dlibsdbbh@mt.gov.

10. Lucy Richards, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF BEHAVIORAL HEALTH
ELAINE MARONICK, LCPC, LMFT
CHAIRPERSON

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

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 14, 2021.