

**BEHAVIORAL HEALTH BOARD LAWS
AS OF THE 2019 LEGISLATIVE SESSION**

**TITLE 37, CHAPTER 35
ADDICTION COUNSELORS**

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CHAPTER 35 ADDICTION COUNSELORS

Chapter Compiler's Comments

Effective Date: Section 16(1), Ch. 507, L. 1997, provided: "Except as provided in subsection (2), [this act] is effective July 1, 1997."

Chapter Cross-References

Alcoholism and drug dependence, Title 53, ch. 24.

Penalty for driving under influence of alcohol or drugs, 61-8-714.

Part 1 General

Part Administrative Rules

Title 24, chapter 154, ARM Licensed addiction counselors.

37-35-101. Purpose. The legislature finds and declares that because the profession of addiction counseling profoundly affects the lives of people of this state, it is the purpose of this chapter to provide for the common good by ensuring the ethical, qualified, and professional practice of addiction counseling. This chapter and the rules promulgated under 37-35-103 set standards of qualification, education, training, and experience and establish professional ethics for those who seek to engage in the practice of addiction counseling as licensed addiction counselors.

History: En. Sec. 1, Ch. 507, L. 1997; amd. Sec. 5, Ch. 23, L. 2001.

Compiler's Comments

2001 Amendment: Chapter 23 throughout section substituted "addiction counseling" for "chemical dependency counseling" and at end substituted "licensed addiction counselors" for "certified chemical dependency counselors". Amendment effective January 1, 2002.

37-35-102. Definitions. As used in this chapter, the following definitions apply:

(1) "Accredited college or university" means a college or university accredited by a regional or national accrediting association for institutions of higher learning.

(2) "Addiction" means the condition or state in which an individual is physiologically or psychologically dependent upon alcohol or other drugs. The term includes chemical dependency as defined in 53-24-103.

(3) "Addiction counselor licensure candidate" means a person who is registered pursuant to 37-35-202(5) to engage in addiction counseling and earn supervised work experience necessary for licensure.

(4) "Board" means the board of behavioral health provided for in 2-15-1744.

(5) "Licensed addiction counselor" means a person who has the knowledge and skill necessary to provide the therapeutic process of addiction and gambling dependence impulse control disorder counseling and who is licensed under the provisions of this chapter.

History: En. Sec. 2, Ch. 507, L. 1997; amd. Sec. 6, Ch. 23, L. 2001; amd. Sec. 140, Ch. 483, L. 2001; amd. Sec. 1, Ch. 72, L. 2011; amd. Sec. 1, Ch. 275, L. 2013; amd. Sec. 6, Ch. 288, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 288 inserted definitions of addiction counselor licensure candidate and board; deleted definition that read: "'Department" means the department of labor and industry provided for in 2-15-1701"; and made minor changes in style. Amendment effective October 1, 2015.

2013 Amendment: Chapter 275 in definition of licensed addiction counselor before "counseling" inserted "and gambling dependence impulse control disorder". Amendment effective October 1, 2013.

2011 Amendment: Chapter 72 in definition of accredited college or university near middle inserted "or national". Amendment effective October 1, 2011.

2001 Amendments — Composite Section: Chapter 23 inserted definition of addiction; inserted definition of licensed addiction counselor; deleted definition of certified chemical dependency counselor that read: "'Certified chemical dependency counselor" means a person who has the knowledge and skill necessary to provide the therapeutic process of chemical dependency counseling and who is certified under the provisions of this chapter"; deleted definition of chemical dependency that read: "'Chemical dependency" means the use of any chemical substance, legal or illegal, that creates behavior or health problems, or both, resulting in operational impairment. This term includes alcoholism, drug dependency, or both, that endanger the health, interpersonal relationships, or economic functions of an individual or the public health, safety, or welfare"; and made minor changes in style. Amendment effective January 1, 2002.

Chapter 483 in definition of department substituted reference to department of labor and industry for reference to department of commerce and substituted "2-15-1701" for "2-15-1801". Amendment effective July 1, 2001.

37-35-103. Board powers and duties. (1) The board shall:

- (a) license and renew the licenses of qualified applicants;
- (b) adopt rules:
 - (i) for eligibility requirements and competency standards;
 - (ii) defining any unprofessional conduct that is not included in 37-1-316; and
 - (iii) setting criteria for training programs, internships, and continuing education requirements to ensure the quality of addiction counseling.
- (2) The board may:
 - (a) adopt rules necessary to implement the provisions of this chapter;
 - (b) adopt rules specifying the scope of addiction counseling that are consistent with the education required by 37-35-202; and
 - (c) establish licensure requirements and procedures that the board considers appropriate.

History: En. Sec. 3, Ch. 507, L. 1997; amd. Sec. 7, Ch. 23, L. 2001; amd. Sec. 93, Ch. 467, L. 2005; amd. Sec. 7, Ch. 288, L. 2015.

Compiler's Comments

2015 Amendment: Chapter 288 in (1), (2), and (2)(c) substituted "board" for "department"; in (1)(b)(ii) substituted "37-1-316" for "37-1-410"; and made minor changes in style. Amendment effective October 1, 2015.

2005 Amendment: Chapter 467 in (1)(a) at beginning deleted "examine"; deleted former (1)(b)(ii) and (1)(b)(iii) that read: "(ii) prescribing the time, place, content, and passing requirements of the licensure and competency examinations and passing scores for licensure under 37-35-202;

(iii) for application forms and fees for licensure and for renewal and licensure expiration dates"; in (1)(b)(ii) after "included in" substituted "37-1-410" for "37-1-316"; in (1)(b)(iii) at beginning substituted "setting criteria" for "adopt and implement rules"; and made minor changes in style. Amendment effective July 1, 2005.

2001 Amendment: Chapter 23 throughout section substituted "licensure" for "certification" or "recertification"; in (1)(a) substituted "license" for "certify" and substituted "licenses" for "certificates"; in (1)(c) substituted "addiction counseling" for "chemical dependency counseling"; and in (2)(b) substituted "addiction counseling" for "chemical dependency counseling". Amendment effective January 1, 2002.

1997 Statement of Intent: The statement of intent attached to Ch. 507, L. 1997, provided: "A statement of intent is required for this bill because [section 3] [37-35-103] grants rulemaking authority to the department of commerce [now department of labor and industry].

It is the intent of the legislature that the department of commerce [now department of labor and industry] have authority to adopt rules to implement and enforce [sections 1 through 9] [Title 37, ch. 35] and specific authority to adopt rules regarding:

- (1) certification applications and procedures necessary to receive and process those applications;
- (2) examinations and criteria for grading examinations;
- (3) disciplinary standards for certificate holders, including definitions of conduct for which discipline may be appropriate;

- (4) investigations of complaints;
- (5) setting and modifying appropriate fees; and
- (6) a process for renewal of certificates, including procedures for late renewal."

Effective Date: Section 16(2), Ch. 507, L. 1997, provided: "The department may publish a notice of adoption of rules and of a hearing to adopt rules to be effective on July 1, 1997."

Cross-References

Adoption and publication of rules, Title 2, ch. 4, part 3.

Part 2 Certification

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

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

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

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

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

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

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

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

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

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

Compiler's Comments

2015 Amendment: Chapter 288 inserted (2)(e) concerning addiction counselor licensure candidate; in (2)(f) in last sentence substituted "board" for "department"; and made minor changes in style. Amendment effective October 1, 2015.

2009 Amendment: Chapter 109 in (2)(d) near beginning after "student" deleted "intern, or resident"; deleted former (2)(f) that read: "(f) of a person who is working to satisfactorily complete supervised addiction counseling experience required for licensure"; and made minor changes in style. Amendment effective October 1, 2009.

Saving Clause: Section 53, Ch. 109, L. 2009, was a saving clause.

Severability: Section 54, Ch. 109, L. 2009, was a severability clause.

2001 Amendment: Chapter 23 throughout section substituted "addiction counseling" for "chemical dependency counseling" and substituted "licensed addiction counselor" for "certified chemical

dependency counselor"; in (1) near end substituted "licensed" for "certified"; and in (2)(f) substituted "licensure" for "certification". Amendment effective January 1, 2002.

37-35-202. Licensure and registration requirements — examination — fees — fingerprint check.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Compiler's Comments

2015 Amendment: Chapter 288 throughout section substituted "board" for "department"; in (5)(a) substituted "the requirements of subsection (2) but has not completed" for "all licensure requirements except" and substituted "may apply for registration as an addiction counselor licensure candidate" for "may apply for a temporary practice permit that authorizes the applicant to complete the required supervised work experience"; in (5)(b) substituted "An application for registration as an addiction counselor licensure candidate must be approved" for "Temporary practice permits must be issued"; in (5)(b)(ii) substituted "there is no legal or disciplinary action" for "initial screening by program staff shows no current disciplinary action"; in (5)(b)(iii) substituted "registration as an addiction counselor licensure candidate" for "a temporary practice permit"; in (5)(c) substituted current text concerning annual registration for former (5)(c) that read: "(c) A person may practice licensed addiction counseling under a temporary practice permit until the person either fails the first license examination for which the person is eligible following issuance of the temporary practice permit or passes the examination and is granted a license"; in (5)(d) substituted "register as an addiction counselor licensure candidate" for "obtain a temporary practice permit"; inserted (7) concerning prerequisites for a license as an addiction counselor licensure candidate; and made minor changes in style. Amendment effective October 1, 2015.

2009 Amendment: Chapter 109 inserted (5) and (6) regarding issuance of a temporary practice permit; and made minor changes in style. Amendment effective October 1, 2009.

Saving Clause: Section 53, Ch. 109, L. 2009, was a saving clause.

Severability: Section 54, Ch. 109, L. 2009, was a severability clause.

2005 Amendment: Chapter 126 in (2)(a) after "baccalaureate" inserted "or advanced" and after "counseling, or a" substituted "comparable degree" for "related field"; in (4) after "examination" substituted "in writing only" for "process"; inserted (6) defining comparable degree; and made minor changes in style. Amendment effective July 1, 2005.

2001 Amendment: (Temporary version) Chapter 23 throughout section substituted "licensed addiction counselor" for "certified chemical dependency counselor" or "chemical dependency counselor"; in (1) near beginning and in (2) substituted "licensure" for "certification"; in (2)(b) substituted "addiction" for "chemical dependency"; in (2)(c) substituted "addiction counseling" for "chemical dependency counseling"; in (3) near middle substituted "addiction treatment" for "chemical dependency treatment"; in (5) substituted "license" for "certificate"; and made minor changes in style. Amendment effective January 1, 2002.

(Version effective January 1, 2004) Chapter 23 throughout section substituted "licensed addiction counselor" for "certified chemical dependency counselor" or "chemical dependency counselor"; in (1) near beginning and in (2) substituted "licensure" for "certification"; in (2)(b) substituted "addiction" for "chemical dependency"; deleted (2)(c) that read: "(c) successfully completed at least 1 year of formalized training in chemical dependency counseling in a program approved by the department or recognized under the laws of another state"; in (3) near middle substituted "addiction treatment" for "chemical dependency treatment"; in (5) substituted "license" for "certificate"; and made minor changes in style.

Administrative Rules

ARM 24.154.401 Fees.

37-35-203. Repealed. Sec. 127, Ch. 467, L. 2005.

History: En. Sec. 6, Ch. 507, L. 1997; amd. Sec. 11, Ch. 23, L. 2001; amd. Sec. 41, Ch. 271, L. 2003.

37-35-204. Penalty. A person convicted of violating any provision of this chapter is guilty of a misdemeanor and shall be fined an amount not to exceed \$500, be imprisoned in a county jail for a term not to exceed 6 months, or both.

History: En. Sec. 8, Ch. 507, L. 1997; Sec. 37-35-302, MCA 2013; redes. 37-35-204 by Code Commissioner, 2015.

Regulation (Renumbered and Repealed)

37-35-301. Repealed. Sec. 11, Ch. 288, L. 2015.
History: En. Sec. 7, Ch. 507, L. 1997; amd. Sec. 12, Ch. 23, L. 2001.

37-35-302. Renumbered 37-35-204. Code Commissioner, 2015.

37-35-303. Repealed. Sec. 11, Ch. 288, L. 2015.
History: En. Sec. 9, Ch. 507, L. 1997.

37-35-304. Repealed. Sec. 11, Ch. 288, L. 2015.
History: En. Sec. 10, Ch. 507, L. 1997; amd. Sec. 13, Ch. 23, L. 2001.