

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

In the matter of the amendment of ARM 24.189.401 ) NOTICE OF AMENDMENT  
fees, and 24.189.604 minimum standards )

TO: All Concerned Persons

1. On June 7, 2007, the Board of Psychologists (board) published MAR Notice No. 24-189-31 regarding the proposed amendment of the above-stated rules, at page 771 of 2007 Montana Administrative Register, issue no. 11.

2. On June 28, 2007, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the July 6, 2007, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments received and the board's responses are as follows:

COMMENT 1: Several commenters opposed the proposed fee increase as an unfair burden on licensees since psychologist salaries have not increased at the same rate. The commenters suggested the board cut back expenses and reduce costs instead of increasing the renewal fee.

RESPONSE 1: All licensing boards are statutorily mandated by 37-1-134, MCA, to set board fees commensurate with the costs of licensure and regulation. The board cannot set fees according to inflation, cost of living, or the current salaries of licensees. A fairly constant number of licensees combined with inflationary increases in costs such as rent, supplies, and electricity and a change in the department's method of allocating costs to boards have resulted in the need to increase fees. Roughly 47 percent of the board's budget is a fixed cost allocation to the board for computer systems, web site support, staff salaries, phone and mail service, and attorney salaries, etc.

The board also notes that both the department and the board continually seek and implement ways to reduce costs associated with board functions. Examples of this are the recent shift to using electronic board books instead of paper ones and having some board meetings by telephone conference instead of in-person attendance.

COMMENT 2: Two commenters opposed the fee increase stating that the board's expenses have not been adequately described. The commenters also questioned the board's necessity and function.

RESPONSE 2: The department is required biennially to provide detailed information to the Montana Legislature on current and projected licensee numbers and board revenues, expenses, activities, goals, objectives, and complaints. The board also

reviews a current financial report, including the board's fiscal year income and expenditures to date, at each full board meeting. This fiscal information is publicly available from the board and is open to public inspection and scrutiny.

The board is an executive branch agency created by the Montana Legislature to protect the public by licensing and regulating psychologists in the state. The Legislature also enacted the statute that mandates the board fund itself solely through its own licensure fees. Thus, the function or funding of the board can only be changed through the actions of the Montana Legislature.

COMMENT 3: One commenter questioned why psychologists' licensing fees are not the same as other Montana licensed mental health professionals, such as social workers.

RESPONSE 3: The board is statutorily required to set and maintain licensure fees that are commensurate with board costs. Licensure fees are directly impacted by the number of licensees a board regulates; thus, boards with fewer licensees generally charge higher fees and boards with more licensees are able to charge lower licensure fees. The board licenses approximately 234 psychologists while the Board of Social Work Examiners and Professional Counselors regulates approximately 1320 licensees.

COMMENT 4: One commenter suggested the board release information on licensee complaints and that a reduction in complaints filed against psychologists and processed by the board may eliminate the need for future fee increases.

RESPONSE 4: The board sets licensure fees to be commensurate with associated board costs of licensing and regulation, including the processing of complaints against licensees and unlicensed individuals. However, per 37-1-312, MCA, all fines assessed by the board as disciplinary sanctions and paid by licensees must be deposited into the state general fund and do not go toward payment of board costs. The board notes that information on final disciplinary actions taken by the board is available to the public upon request to the board and will be available in electronic format on the board's web site by January 1, 2009.

4. The board has amended ARM 24.189.401 and 24.189.604 exactly as proposed.

BOARD OF PSYCHOLOGISTS  
GEORGE WATSON, PhD., CHAIRPERSON

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

/s/ KEITH KELLY  
Keith Kelly, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 27, 2007