

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 8.52.624, 8.52.801, 8.52.802,) AND ADOPTION
8.52.803, 8.52.804 and 8.52.805,)
to clarify record retention and)
defined professional relationships)
of psychologists, and the adoption)
of NEW RULE I (8.52.625), relating)
to foreign-educated psychologists)

TO: All Concerned Persons

1. On March 25, 2004, the Board of Psychologists published MAR Notice No. 8-52-26 regarding the public hearing on the proposed amendment and adoption of the above-stated rules at page 611 of the 2004 Montana Administrative Register, issue no. 6.

2. A public hearing on the proposed amendment and adoption was held on April 15, 2004. No one attended the hearing. Several public comments were received concerning the proposed rule changes. The Board has thoroughly considered the comments and a summary of the comments and the Board's responses are as follows:

Comment 1: The Montana Psychological Association (MPA) and Guy Dean Bateman, PhD, expressed concerns that the amendments to ARM 8.52.624 would preclude crisis intervention by licensed psychologists via the telephone.

Response 1: The Board states that it is not the intent behind the proposed rule amendments to preclude licensed psychologists from providing telephonic crisis services. The Board has amended ARM 8.52.803(4) to provide clarity in this matter.

Comment 2: Debra Sanchez, PhD, MPA, and the MPA stated that telephonic "on-call" coverage for mental health agencies would also be precluded under the amendments to ARM 8.52.624.

Response 2: The Board recognizes the commenters' concerns and has amended ARM 8.52.803(4) to clarify that is it not the Board's intent to preclude licensed psychologists from rendering telephonic "on-call" coverage services.

Comment 3: Guy Dean Bateman, PhD, stated that the Board should provide a definition for "client," as used in these rules.

Response 3: The Board has concluded that a specific definition of "client" is not necessary for proper interpretation and application of the rules.

Comment 4: Guy Dean Bateman, PhD, commented that the amendments to ARM 8.52.803(1)(d) would remove current protections in rule for people working with psychologists but who are not clients.

Response 4: The Board has concluded that individuals who are not clients but who work with licensees are protected elsewhere in existing rules. ARM 8.52.803(2)(a) states that a licensee shall not "exploit persons over whom they have supervisory, evaluative or other authority such as students, supervisees, employees, research participants or clients."

Comment 5: Bill Cook, PhD, expressed concerns that the amendments to ARM 8.52.624 appear to preclude a psychologist's use of email as a communication technique in practice.

Response 5: The amendment to ARM 8.52.624 does not preclude the use of email as a part of a psychologist's practice. The amendment requires that a defined professional relationship be initially established through contexts that are specifically defined in rule. The Board has amended the rule to provide more clarity.

Comment 6: Bill Cook, PhD, stated that the requirement in ARM 8.52.802(2)(a) of a psychologist-client discussion to include "modalities of treatment" is vague and requests clarification of the meaning.

Response 6: The Board agrees with the comment and has amended the rule to provide more clarity in its meaning.

Comment 7: Cheryl Blank, PhD, expressed concern that the proposed requirement in New Rule I for foreign-trained psychologists to have a minimum level of English competency is racist in nature.

Response 7: The Board is statutorily obligated to license psychologists and regulate the practice of psychology in Montana for the protection of the health, safety and welfare of the Montana public. The Board determined that a minimum level of English competency is necessary to ensure the safety of members of the public who obtain the professional services of foreign-trained psychologists.

3. After consideration of the comments, the Board has amended ARM 8.52.801, 8.52.804, 8.52.805, and has adopted New Rule I (8.52.625) exactly as proposed.

4. The Board has amended ARM 8.52.624, 8.52.802, and 8.52.803 as proposed with the following changes (deleted matter stricken, new matter underlined):

8.52.624 DEFINITIONS As used in this chapter, the following definitions apply:

(1) "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) through (2) remain as proposed.

AUTH: 37-1-131, 37-17-202, MCA
IMP: 37-1-131, 37-17-101, MCA

8.52.802 PRACTICE OF PSYCHOLOGY (1) and (2) remain as proposed.

(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) through (3) remain as proposed.

AUTH: 37-1-131, 37-1-319, 37-17-202, MCA
IMP: 37-1-131, 37-1-316, 37-17-101, MCA

8.52.803 PROFESSIONAL RESPONSIBILITY (1) through (3) remain as proposed.

(4) remains as proposed.

(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) through (7) remain as proposed.

AUTH: 37-1-131, 37-1-319, 37-17-202, MCA
IMP: 37-1-131, 37-1-316, 37-17-101, MCA

BOARD OF PSYCHOLOGISTS
PAUL SILVERMAN, PhD, Chair

/s/ WENDY J. KEATING
Wendy J. Keating, Commissioner
DEPARTMENT OF LABOR & INDUSTRY

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

Certified to the Secretary of State June 21, 2004

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