



ADMINISTRATIVE RULES OF MONTANA

24.219.2301 UNPROFESSIONAL CONDUCT AND CODE OF ETHICS – LCSW, LMSW, LBSW, LCPC, LMFT, LAC, CBHPSS, CFPSS, AND LCSW, LMSW, LBSW, LCPC, LMFT, AND LAC CANDIDATES

- (1) In addition to the provisions of 37-1-316, MCA, the following are unprofessional conduct.
- (2) A licensee shall not:
 - (a) fail to respond to board inquiry or furnish information requested by the board, department investigators, or board representatives;
 - (b) commit any of the following boundary violations:
 - (i) provide services to a person with whom the licensee has had sexual contact at any time;
 - (ii) engage in or solicit sexual relations with a client or commit an act of sexual misconduct or a sexual offense if such act, offense, or solicitation is substantially related to the qualifications, functions, or duties of the licensee;
 - (iii) engage in sexual contact with a former client, within two years following termination of professional services. After two years, the licensee who engages in such activity following termination of professional services must demonstrate that there has been no exploitation, in light of all relevant factors, including:
 - (A) the amount of time that has passed since professional services terminated;
 - (B) the nature and duration of the professional services;
 - (C) the circumstances of termination;
 - (D) the client's personal history;
 - (E) the client's current mental status;
 - (F) the likelihood of adverse impact on the client; and
 - (G) any statements or actions made by the licensee during the defined professional relationship suggesting or inviting the possibility of a post-termination sexual or romantic relationship with the client;
 - (iv) solicit or engage in a sexual or intimate relationship with a client, a supervisee, client's family member, a client's household member, or other persons with whom a client has had a significant relationship;
 - (v) soliciting or engaging in sexual relations with the client of another licensee employed in the same program providing services;

- (vi) condone or engage in sexual or other harassment;
- (vii) engage in a dual relationship with a client or former client if the dual relationship has the potential to compromise the client's well-being, impair the licensee's objectivity and professional judgment, or creates or increases the risk of exploitation of the client. If a dual relationship arises as a result of unforeseeable and unavoidable circumstances, the licensee shall promptly take appropriate professional precautions. Appropriate professional precautions must ensure that the client's well-being is not compromised and that no exploitation occurs and should include consultation, supervision, documentation, or obtaining written informed consent of the client;
- (viii) terminate a professional relationship for the purpose of beginning a personal or business relationship with a client;
- (ix) participate in bartering, unless bartering is considered to be essential for the provision of services, negotiated without coercion, and entered into at the client's initiative and with the client's informed consent. Licensees who accept goods or services from clients as payment for professional services assume the full burden of demonstrating that this arrangement will not be detrimental to the client or the professional relationship;
- (x) accept gifts or gratuities of significant monetary value or borrow money from a client or former client within two years after termination of services, except when this is a culturally accepted practice;
- (xi) interfere with or encourage termination of any legitimate personal relationship of a client, or interfere with a therapeutic relationship of another professional;
- (c) intentionally, recklessly, or carelessly cause physical or emotional harm to a client;
- (d) divide a fee or accept or give anything of value for receiving or making a referral;
- (e) exploit, as defined in ARM 24.219.301, in any manner professional relationships;
- (f) engage in conduct in the profession or occupation found to be a violation of the Montana Human Rights Act, Title 49, MCA;
- (g) falsify, misrepresent, or fail to maintain supervision records as required by ARM 24.219.422;
- (h) fail to appropriately supervise a licensure candidate, CBHPSS, CFPSS, or individual requiring supervision to perform a sexual offender evaluation under 37-1-139, MCA;
- (i) recommend a client seek or discontinue prescribed medication, or fail to provide a supportive environment for a client who is receiving prescribed medication;
- (j) engage in the practice when the licensee's license is inactive, has expired, is terminated, or has been suspended;
- (k) violate federal or state law regulating the possession, distribution, or use of a controlled substance, as defined by Title 50, chapter 32, MCA;
- (l) be convicted of driving while under the influence of alcohol or drugs (DUI), or criminal possession of dangerous drugs at any time after issuance of a license, and within the two years preceding an application for licensure;
- (m) perform or supervise psychological assessments if not qualified to do so;

- (n) perform or supervise parenting plan evaluations without specialized training, education, and experience in the areas of assessment of children and adults, child and family development, child and family psychopathology, and the impact of divorce on families ; or
 - (o) practice independently as an LMSW or LBSW.
- (3) All licensees shall:
- (a) provide clients with accurate and complete information regarding the extent and nature of the services available to them, including the purpose and nature of any evaluation, treatment, or other procedures, and of the client's right to freedom of choice regarding services provided;
 - (b) terminate services and professional relationships with clients when such services and relationships are no longer required or where a conflict of interest exists;
 - (c) make every effort to keep scheduled appointments;
 - (d) notify clients promptly and seek the transfer, referral, or continuation of services pursuant to the client's needs and preferences if termination or interruption of services is anticipated;
 - (e) attempt to make appropriate referrals pursuant to the client's needs;
 - (f) obtain informed written consent of the client or the client's legal guardian prior to the client's involvement in any research project of the licensee that might identify the client or place them at risk;
 - (g) obtain informed written consent of the client or the client's legal guardian prior to taping, recording, or permitting third-party observation of the client's activities that might identify the client or place them at risk;
 - (h) except where required by law or court order, safeguard information provided by clients, and make reasonable efforts to limit access to client information in an agency setting to those staff whose duties require access;
 - (i) disclose to and obtain written acknowledgement from the client or prospective client as to the fee to be charged for professional services, and/or the basis upon which the fee will be calculated;
 - (j) make and maintain records of services provided to a client. At a minimum, the records shall contain:
 - (i) documentation verifying the identity of the client;
 - (ii) documentation of the assessment and/or diagnosis;
 - (iii) documentation of each session;
 - (iv) documentation of a plan, documentation of any revision of the assessment or diagnosis or of a plan;
 - (v) documentation of discharge summary;
 - (vi) any fees charged and other billing information; and
 - (vii) copies of all client authorization for release of information and any other legal forms pertaining to the client. These records shall be maintained by the licensee or agency

employing the licensee under secure conditions and for time periods in compliance with applicable federal or state law, but in no case for fewer than seven years after the last date of service.

(4) In addition to (2) and (3), CBHPSS are subject to the following standards.

(a) CBHPSS shall:

- (i) conduct themselves in a way that fosters their own recovery and take personal responsibility to seek support and manage their wellness;
- (ii) as mandatory reporters, report abuse to appropriate authorities and supervisors;
- (iii) disclose any pre-existing relationships, sexual or otherwise, to supervisor(s) prior to providing services to that individual; and
- (iv) report risk of imminent harm to self or others to the proper authorities and to their supervisor. When reporting, the minimum amount of information necessary will be given to maintain confidentiality.

(b) CBHPSS shall not:

- (i) engage or offer advice on the matters of diagnosis, treatment, or medications to the client; or
- (ii) engage in or promote behaviors or activities that would jeopardize the CBHPSS's recovery or the recovery of those they serve.

(5) In addition to (2) and (3), CFPSS are subject to the following standards.

(a) CFPSS shall:

- (i) conduct themselves in a way that fosters their own wellness and take personal responsibility to seek support and manage their wellness;
- (ii) as mandatory reporters, report abuse to appropriate authorities and supervisors;
- (iii) disclose any pre-existing relationships, sexual or otherwise, to supervisor(s) prior to providing services to that individual; and
- (iv) report risk of imminent harm to self or others to the proper authorities and to their supervisor. When reporting, the minimum amount of information necessary will be given to maintain confidentiality.

(b) CFPSS shall not:

- (i) engage or offer advice on the matters of diagnosis, treatment, or medications to the client; or
- (ii) engage in or promote behaviors or activities that would jeopardize the CFPSS's wellness or the wellness of those they serve.

Authorizing statute(s): 37-1-131, 37-1-136, 37-1-139, 37-1-319, 37-39-103, MCA

Implementing statute(s): 37-1-131, 37-1-136, 37-1-139, 37-1-316, 37-1-319, 37-39-103, MCA

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