

Committee Issue: SB 39 Update

Included in this packet:

- New administrative rules adopted by Department of Labor and Industry as required in SB 39
- Copy of section 37-1-139, MCA, as referenced in rules

2021-2022 Law and Justice Interim Committee

March 21-22, 2022

CHRISTI JACOBSEN
MONTANA SECRETARY OF STATE[HOME](#) [SEARCH](#) [ABOUT US](#) [CONTACT US](#) [HELP](#)[Prev](#)[Next](#)**24.250.301 DEFINITIONS**

- (1) "Face-to-face" means supervision which is either:
- (a) in-person; or
 - (b) electronically. The transmission must:
 - (i) be two-way;
 - (ii) be interactive;
 - (iii) be real-time;
 - (iv) be simultaneous; and
 - (v) provide for both audio and visual interaction.
- (2) "Sexual offender evaluator supervisor" means the licensed clinical social worker (LCSW), licensed clinical professional counselor (LCPC), licensed marriage and family therapist (LMFT), psychiatrist, psychologist, or advanced practice registered nurse with a psychiatric mental health nurse practitioner certification who is qualified to conduct sexual offender evaluations. The supervisor must have:
- (a) a license in good standing; and
 - (b) at least three years current ongoing experience in practice as a sexual offender evaluator and treatment provider.

History: [37-1-131](#), [37-1-139](#), MCA; [IMP](#), [37-1-131](#), [37-1-139](#), MCA; [NEW](#), 2021 MAR p. 1920, Eff. 12/24/21.

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CHRISTI JACOBSEN
MONTANA SECRETARY OF STATE[HOME](#) [SEARCH](#) [ABOUT US](#) [CONTACT US](#) [HELP](#)[Prev](#)[Next](#)**24.250.501 SEXUAL OFFENDER EVALUATOR LICENSE ENDORSEMENT**

(1) Applicants for a sexual offender evaluator endorsement who are licensed as an LCSW, LCPC, LMFT, psychiatrist, psychologist, or advanced practice registered nurse with a psychiatric mental health nurse practitioner certification under ARM Title 24, chapters 156, 159, 189, and 219, shall:

(a) meet the requirements described in [37-1-139](#)(3)(a) through (c), MCA; and
(b) be a full or clinical member of the Association for the Treatment of Sexual Abusers (ATSA) or other board-approved national professional organization that meets the requirements in [37-1-139](#)(3)(d), MCA.

(2) The 2000 hours supervised experience required in [37-1-139](#), MCA, must include:
(a) supervision by a sexual offender evaluator supervisor;
(b) face-to-face supervision at a ratio of two hours of supervision for each sequential 40 hours of evaluation and treatment of sexual offenders; and
(c) 25 hours of the 400 hours in face-to-face evaluations of sexual offenders or therapy sessions with sexual offenders must be supervised in-person by the supervisor.

History: [37-1-131](#), [37-1-139](#), MCA; [IMP](#), [37-1-131](#), [37-1-139](#), MCA; [NEW](#), 2021 MAR p. 1920, Eff. 12/24/21.

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Montana Code Annotated 2021

TITLE 37. PROFESSIONS AND OCCUPATIONS

CHAPTER 1. GENERAL PROVISIONS

Part 1. Duties and Authority of Department, Director, and Boards

Definition -- Joint Duties Of Boards -- Sexual Offender Evaluator License Endorsement -- Rulemaking

37-1-139. (Effective January 1, 2022) **Definition -- joint duties of boards -- sexual offender evaluator license endorsement -- rulemaking.** (1) As used in this section, "boards" means the following boards jointly:

- (a) board of behavioral health as established in 2-15-1744;
- (b) board of medical examiners as established in 2-15-1731;
- (c) board of nursing as established in 2-15-1734; and
- (d) board of psychologists as established in 2-15-1741.

(2) The boards shall:

(a) jointly establish, develop rules, and maintain standards, consistent with appropriate national standards for evaluation and treatment of sexual offenders, and guidelines for evidence-based assessment, evaluation, treatment, and behavioral monitoring of sexual offenders, including the transition into community-based treatment from a prison setting;

(b) create a subcommittee to draft requirements for sexual offender evaluators. The subcommittee must include one member of each board and two licensees of the boards listed in subsection (1) who have been engaged in the practice of evaluating sexual offenders during the last 4 years.

(c) require sexual offender evaluators to use the following levels of risk designations for a sexual offender:

- (i) level 1, the risk of a repeat sexual offense is low;
- (ii) level 2, the risk of a repeat sexual offense is moderate; or

(iii) level 3, the risk of a repeat sexual offense is high, there is a threat to public safety, and the sexual offender evaluator believes that the offender is a sexually violent predator; and

(d) using recommendations from the subcommittee, set and enforce educational and experiential requirements for licensees of each of the boards to obtain a license endorsement as a sexual offender evaluator. A person may not perform sexual offender evaluations for purposes of this section without first obtaining a license endorsement.

(3) The requirements set pursuant to subsection (2)(d) must include that an evaluator:

- (a) is a professional licensed in Montana or in another state as:
 - (i) a physician;
 - (ii) an advanced practice registered nurse;
 - (iii) a clinical psychologist;
 - (iv) a clinical social worker;
 - (v) a clinical professional counselor; or
 - (vi) a marriage and family therapist;

(b) has 2,000 documented hours of supervised experience in the evaluation and treatment of sexual offenders, at least 400 hours of which are face-to-face evaluations of sexual offenders or therapy sessions with sexual offenders. The provisions of this subsection (3)(b) do not apply when an evaluator is renewing the endorsement.

(c) has completed at least two sexual offender evaluations under supervision;

(d) is a full or clinical member of at least one relevant national professional organization that has ethics of practice for sexual offender assessment and treatment; and

(e) must renew the license endorsement concurrent with the evaluator's professional license.

History: En. Sec. 1, Ch. 481, L. 2021.