

BEFORE THE ALTERNATIVE HEALTH CARE BOARD
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.111.409 inactive status,)
24.111.511 naturopathic physician)
natural substance formulary list,)
24.111.602 direct-entry midwife)
apprenticeship requirements,)
24.111.2102 naturopathic physician)
continuing education requirements,)
and 24.111.2103 midwives continuing)
education requirements)

TO: All Concerned Persons

1. On February 23, 2012, the Alternative Health Care Board (board) published MAR notice no. 24-111-24 regarding the public hearing on the proposed amendment of the above-stated rules, at page 345 of the 2012 Montana Administrative Register, issue no. 4.

2. On March 15, 2012, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the March 23, 2012, 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: One commenter stated that the amendments to ARM 24.111.602, to require Level II apprentices have five of ten births supervised by a licensed direct-entry midwife, and Level III apprentices have eight of 15 continuous care births supervised by a Montana-licensed direct-entry midwife, will decrease women's choices for alternative medical care.

RESPONSE 1: The board notes that apprentices are not primary care providers and the amendments to ARM 24.111.602 set a minimal standard for apprentices to ensure appropriate supervision by a licensed direct-entry midwife for the safety of women seeking alternative medical care. The board also concludes that the purpose of the board is to regulate and ensure the qualified and professional practice of direct-entry midwifery, and the amendments to this rule advance the board's purpose.

COMMENT 2: Two commenters suggested that the amendments to ARM 24.111.602 would delay the licensure of direct-entry midwives.

RESPONSE 2: The board responds that the amendments to ARM 24.111.602 will not impose an unreasonable delay in licensure. Applicants have five years within which to complete the apprenticeship requirements, and these amendments will ensure that apprentices obtain sufficient experience and training in the home birth setting. These requirements will also enable the apprentices to understand Montana statutes and rules under appropriate supervision.

COMMENT 3: Three commenters stated that the amendments to ARM 24.111.602 are disadvantageous to apprentices in rural areas of the state where there are few supervising midwives, and will necessitate traveling long distances to obtain the required supervision.

RESPONSE 3: The board concludes that the amendments to ARM 24.111.602 will not place an undue hardship on apprentices. Only Levels II and III are to be affected by the amendments, which set minimum standards for public safety. While travel may be necessary to obtain the required supervision, the board notes that other licensed professions must obtain training out-of-state.

COMMENT 4: One commenter suggested that alternatives to amending ARM 24.111.602 include board acceptance of Midwifery Education Accreditation Council (MEAC)-approved institutions, preapproval by the board of North American Registry of Midwives (NARM) accepted preceptors, and online classes or in-person workshops that would allow the board to focus on improving and encouraging midwifery in Montana.

RESPONSE 4: The board notes the role of the board is not to promote or encourage midwifery in Montana, but rather, to regulate midwifery and ensure public safety. Furthermore, Montana licensing requirements are more stringent than MEAC requirements. Any changes to Montana's licensing qualifications would require legislative enactment and cannot be accomplished through rulemaking.

COMMENT 5: One commenter stated that the amendment to ARM 24.111.602 to require board approval to proceed to the next level of apprenticeship, would delay the approval process up to six months.

RESPONSE 5: The board notes that this objection has been addressed through board processes. The board responds to requests to proceed to the next level of apprenticeship in a timely manner, and there are no unreasonable delays in current review of such requests.

COMMENT 6: One commenter, who is currently a Level III apprentice, objected to the proposed amendment to ARM 24.111.602, because some of her births, which were not supervised by a licensed direct-entry midwife, would be invalidated.

RESPONSE 6: The board agrees that current Level II or Level III apprentices would have difficulty complying with the proposed supervision requirements. The board is

amending ARM 24.111.602 to exempt Level II and Level III apprentices licensed on or before April 13, 2012, from the new supervision requirements.

4. The board has amended ARM 24.111.409, 24.111.511, 24.111.2102, and 24.111.2103 exactly as proposed.

5. The board has amended ARM 24.111.602 with the following changes, stricken matter interlined, new matter underlined:

24.111.602 DIRECT-ENTRY MIDWIFE APPRENTICESHIP REQUIREMENTS (1) through (10) remain as proposed.

(11) The supervision requirements set forth in (5)(a), (6)(a), and (8) shall not apply to licensees who were licensed as Level II and Level III apprentices on or before April 13, 2012.

6. The board has requested an amendment be made in the header due to a typographical error that was published in a previous notice for ARM 24.111.511. The following change is listed below with stricken matter interlined, new matter underlined:

In the matter of the amendment of ARM 24.111.409 inactive status, 24.111.511 naturopathic physician ~~national~~ natural substance formulary list, 24.111.602 direct-entry midwife apprenticeship requirements, 24.111.2102 naturopathic physician continuing education requirements, and 24.111.2103 midwives continuing education requirements

ALTERNATIVE HEALTH CARE BOARD
MAGGI BEESON, ND, 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 July 2, 2012