

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.111.409 inactive status,) PROPOSED AMENDMENT
24.111.511 naturopathic physician)
national 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 March 15, 2012, at 9:30 a.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment of the above-stated rules.

2. The Department of Labor and Industry (department) will make reasonable accommodations for persons with disabilities who wish to participate in this public hearing or need an alternative accessible format of this notice. If you require an accommodation, contact the Alternative Health Care Board (board) no later than 5:00 p.m., on March 9, 2012, to advise us of the nature of the accommodation that you need. Please contact Cheryl Brandt, Alternative Health Care Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2394; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdahc@mt.gov.

3. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

24.111.409 INACTIVE STATUS (1) through (3)(c) remain the same.
(i) are not required to maintain CPR or neonatal resuscitation credentials while on inactive status; ~~and~~
(ii) are exempt from CE requirements; and
(iii) are exempt from reporting requirements pursuant to ARM 24.111.613.
(4) through (6) remain the same.

AUTH: 37-1-131, 37-1-319, 37-26-201, 37-27-105, MCA
IMP: 37-1-131, 37-1-319, MCA

REASON: The board determined it is reasonably necessary to amend this rule and no longer require midwives on inactive status to submit semiannual reports on their

clients. By rule, inactive status licensees are prohibited from practicing under that license, and therefore, have no clients and no need to report.

24.111.511 NATUROPATHIC PHYSICIAN NATURAL SUBSTANCE FORMULARY LIST (1) through (7) remain the same.

(8) Naturopathic physicians may prescribe and administer enzyme, digestive, and proteolytic preparations. The following are examples:

(a) through (13) remain the same.

(a) albuterol;

(a) through (e) remain the same, but are renumbered (b) through (f).

(g) lisinopril;

(f) through (j) remain the same, but are renumbered (h) through (l).

(14) through (17) remain the same.

AUTH: 37-1-131, 37-26-201, MCA

IMP: 37-26-301, MCA

REASON: Pursuant to 37-26-301, MCA, the board-appointed formulary committee has recommended that the full board amend the natural substance formulary list to include albuterol, prescribed for asthma, and lisinopril, prescribed for hypertension. The committee found that both drugs have been proven effective in treating these medical conditions. The board concluded that adding these drugs to the formulary will enable naturopaths to provide primary care to their patients and noted that these substances are routinely covered in both the naturopaths' medical education and continuing education programs as agents for use in clinical practice.

24.111.602 DIRECT-ENTRY MIDWIFE APPRENTICESHIP REQUIREMENTS (1) and (2) remain the same.

(3) Applicants for a direct-entry midwife apprenticeship license shall submit a completed application with the proper fee, a current CPR card indicating certification to perform adult and infant cardiopulmonary resuscitation, a supervision agreement, and a curriculum outline or method of academic learning that meets the board's educational rule requirements for licensure. A supervision agreement shall include:

(a) through (4)(c) remain the same.

(d) submit a positive evaluation of skills and educational progress form, ~~with~~ and written verification by supervisor of completion of Level I; ~~and~~

(e) obtain approval from the board to proceed to Level II.

(5) A Level II direct-entry midwife apprenticeship is served under the direct supervision of the licensed supervisor, with a focus on birth, postpartum, and newborn care. To complete Level II, the direct-entry midwife apprentice shall:

(a) attend ten births as primary birth attendant; Five of the ten births, as primary birth attendant in Level II, must be supervised by a licensed direct-entry midwife. The which births are must be verified by signed birth certificates, signed affidavits from the birthing mothers, or affidavit documented records from supervisor; the person who supervised the births to include all of the following:

(i) prenatal records;

(ii) birth records; and

(iii) postpartum records.

(b) through (5)(d) remain the same.

(e) submit a positive evaluation of skills and educational progress form, ~~with~~ and written verification by supervisor of completion of Level II; and

(f) obtain approval from the board to proceed to Level III.

(6) A Level III direct-entry midwife apprenticeship is served as either Level III-A or III-B, as defined below. The focus of Level III shall be continuous prenatal, perinatal, and postnatal care. To complete Level III, the direct-entry midwife apprentice shall:

(a) complete 15 continuous-care births as the primary attendant; Eight of the 15 continuous-care births in Level III must be supervised by a Montana-licensed direct-entry midwife. which are The births must be verified by signed birth certificates, signed affidavits from the birthing mothers, or affidavit documented records from supervisor; the person who supervised the births to include all of the following:

(i) prenatal records;

(ii) birth records; and

(iii) postpartum records.

(~~+~~) (b) provide documentation of each of the 15 continuous-care births as defined in 37-27-103, MCA, which must include at least five prenatal exams, one of which must have been performed before the beginning of the 28th week of gestation, as determined by last menstrual period or sonogram, and include one postpartum exam. Ten of the 15 continuous-care births must have been performed under the personal supervision of a qualified supervisor;:

(b) remains the same, but is renumbered (c).

(~~e~~) (d) submit protocols for birth, postpartum, and newborn care;

(~~d~~) (e) complete Level III skills checklist; and

(~~e~~) (f) submit a positive evaluation of skills and educational progress form, ~~with~~ and written verification by supervisor of completion of Level III.

(7) Level III III-A and Level III-B direct-entry midwife apprentices are ~~separated~~ distinguished as follows:

(a) remains the same.

(b) A Level III-B direct-entry midwife apprentice shall require ~~direct~~ indirect supervision by the licensed supervisor ~~unless~~ when, in the professional judgment of the supervisor, with concurrence of the board, the Level III-B apprentice is capable of safely and competently performing midwifery services under indirect supervision after the following requirements have been met:

(i) remains the same.

(ii) verification of completion of at least 75 percent of educational/academic requirements for full licensure; and

(iii) remains the same.

(8) Direct-entry midwife apprenticeship applicants who have, at the time of application, through an apprenticeship or other supervisory setting, participated as the primary birth attendant at 25 births, 15 of which included continuous care, may enter directly into direct-entry midwife apprenticeship license Level III-B. To complete Level III-B, at least eight continuous-care births must be supervised by a Montana-licensed direct-entry midwife.

(a) The 25 births and 15 continuous-care births shall be evidenced by the signed birth certificate as primary birth attendant, an affidavit from the birth mother, or documented records from the applicant, ~~as shown on the birth experience form furnished by the board.~~ person who supervised the births to include all of the following:

(i) prenatal records;

(ii) birth records; and

(iii) postpartum records.

(a) through (9)(c) remain the same, but are renumbered (b) through (9)(d).

~~(d)~~ (e) notify the board in writing of any change in the supervisory relationship, including advancement from direct to indirect supervision, termination of the supervisory relationship, or any other relevant changes, and submit supervision change notification to the board so that it is received on or before the day that supervised tasks are performed in order for them to count toward licensure requirements; and

(e) remains the same, but is renumbered (f).

(10) remains the same.

AUTH: 37-1-131, 37-27-105, MCA

IMP: 37-27-105, 37-27-201, 37-27-205, 37-27-321, MCA

REASON: The board is amending this rule to clarify the requirements for completion of the three direct-entry midwifery apprenticeship levels and to specify that board approval is required before an apprentice may proceed to the next apprenticeship level. This rule conforms with the statutory requirements of documentation required to verify completion of the requirements at each level. When the board receives incomplete birth information, additional documentation is requested from the applicant. The board is also amending this rule to specifically set forth the documentation that must be submitted by the person who supervised the births to further clarify and implement 37-27-201, MCA.

The board is amending (5)(a) to clarify that in a Level II apprenticeship, five of the ten births as primary birth attendant, must be supervised by a licensed direct-entry midwife to ensure that the apprentice receives sufficient experience and training in a home birth setting. The board is amending (6) to specify that eight of the 15 continuous-care births in the Level III apprenticeship must be supervised by a Montana-licensed direct-entry midwife. The board concluded this supervision is necessary to ensure that direct-entry midwives are sufficiently and specifically trained to operate within a midwife's scope of practice in Montana.

The board determined it is reasonably necessary to amend (7) to address confusion on the differences between Level III-A and III-B apprentices. Level III-A apprentices require direct supervision by a licensed supervisor and Level III-B allows indirect supervision of apprentices when certain requirements have been met and with the concurrence of the board.

24.111.2102 NATUROPATHIC PHYSICIAN CONTINUING EDUCATION

REQUIREMENTS (1) Naturopaths must obtain 15 continuing education credits each renewal period, except as provided in ~~(9)~~ (8). At least five of the credits must

be in naturopathic pharmacy. If the naturopath holds a naturopathic childbirth specialty certification as provided in ARM 24.111.510, an additional five credits per renewal period must be obtained in obstetrics. One hour of education (excluding breaks) equals one continuing education credit.

(2) through (8) remain the same.

AUTH: 37-1-131, 37-1-319, 37-26-201, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, MCA

REASON: The board is amending this rule and ARM 24.111.2103 to reference the correct rule sections, as the rules were renumbered through amendment in 2009.

24.111.2103 MIDWIVES CONTINUING EDUCATION REQUIREMENTS

(1) Midwives must obtain 14 continuing education credits each renewal period, except as provided in ~~(9)~~ (8). One hour of education (excluding breaks) equals one continuing education credit.

(2) through (8) remain the same.

AUTH: 37-1-131, 37-1-319, 37-27-105, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, MCA

4. Concerned persons may present their data, views, or arguments either orally or in writing at the hearing. Written data, views, or arguments may also be submitted to the Alternative Health Care Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdahc@mt.gov, and must be received no later than 5:00 p.m., March 23, 2012.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's web site on the World Wide Web at www.althealth.mt.gov. The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address do not excuse late submission of comments.

6. The board maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by this board. Persons who wish to have their name added to the list shall make a written request that includes the name, e-mail, and mailing address of the person to receive notices and specifies the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or

standard mail is preferred. Such written request may be sent or delivered to the Alternative Health Care Board, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdahc@mt.gov; or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

8. Mary Tapper, attorney, has been designated to preside over and conduct this hearing.

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 February 13, 2012