

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

In the matter of the proposed amendment of ) NOTICE OF PUBLIC HEARING  
ARM 24.126.406 record of minutes and ) ON PROPOSED AMENDMENT  
hearings, 24.126.501 applications, 24.126.504 ) AND ADOPTION  
exam requirements, 24.126.507 temporary )  
permit, 24.126.510 endorsement, 24.126.701 )  
inactive status and conversion to active status, )  
24.126.704 interns and preceptors, 24.126.901, )  
24.126.904, 24.126.907, and 24.126.910 )  
impairment evaluators, 24.126.2101 renewals )  
and continuing education, 24.126.2301 )  
unprofessional conduct, adoption of NEW RULE )  
I and NEW RULE II continuing education )

TO: All Concerned Persons

1. On July 10, 2008, at 2:30 p.m., a public hearing will be held in room 471, 301 South Park Avenue, Helena, Montana to consider the proposed amendment and adoption 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 Board of Chiropractors (board) no later than 5:00 p.m., on July 7, 2008, to advise us of the nature of the accommodation that you need. Please contact Traci Collett, Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail [dlibsdcchi@mt.gov](mailto:dlibsdcchi@mt.gov).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: As part of the periodic review of its administrative rules, the board is proposing revisions throughout the rules. Some of the proposed amendments are technical in nature, such as renumbering or amending punctuation within certain rules following amendment and to comply with ARM formatting requirements. Other changes replace out-of-date terminology for current language and processes, delete unnecessary or redundant sections, substitute gender neutral terms for gender specific language, and amend rules and catchphrases for accuracy, consistency, simplicity, better organization, and ease of use. Authority and implementation cites are being amended throughout to accurately reflect all statutes implemented through the rules and to provide the complete sources of the board's rulemaking authority. Accordingly, the board has determined that reasonable necessity exists to generally amend certain rules at this time. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

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

24.126.406 RECORD OF MINUTES AND HEARINGS (1) ~~The full proceedings of the board, including the regular and special meetings, shall be typewritten and a copy supplied to each member of the board by the department.~~ An official record of the entire proceedings of a meeting, or minutes, shall be kept for all public meetings and shall be made available to each member of the board by the department.

AUTH: ~~37-12-201, 2-6-101, MCA~~

IMP: ~~37-12-201, 2-6-101, MCA~~

REASON: It is reasonably necessary to amend this rule to allow for electronic records of proceedings. Board members are now receiving their materials, which include the minutes, electronically on flash drives and the minutes are available on the Internet so it is no longer necessary to specify that they be typewritten.

24.126.501 APPLICATIONS (1) Pursuant to the requirements of 37-12-302, MCA, an application for original license, renewal, examination, temporary permit, or ~~activation~~ conversion of an inactive license must be made on a form provided by the department and completed and signed by the applicant, ~~with the signature acknowledged before a notary public.~~

(2) The application must be ~~typed or legibly handwritten in ink,~~ accompanied by the appropriate fee(s) and contain sufficient evidence that the applicant possesses the qualifications set forth in Title 37, chapter 12, MCA, and rules promulgated thereunder.

(3) ~~Failure to resubmit a complete application within one year will indicate voluntary withdrawal of the application.~~ Applications not completed within one year of submission will be closed and the applicant will have to reapply.

(4) through (6)(a) remain the same.

(b) a certified copy of ~~examination~~ the national board examination results sent directly from the National Board of Chiropractic Examiners (NBCE), ~~of Parts I and II, including physiotherapy, Part III, and Part IV;~~ and physiotherapy;

(c) verification of licensure sent directly from any state in which the applicant ~~is currently licensed~~ has held or holds a license; and

(d) affidavits regarding the applicant's good moral character from two persons not related to the applicant.

AUTH: 37-1-131, 37-12-201, MCA

IMP: 37-1-131, 37-12-302, 37-12-304, MCA

REASON: The board is amending this rule to delete the requirement for applications to be notarized. To further facilitate the online submission of license applications and because the department and board determined the requirement is unnecessary, the board will no longer require signature or content notarization on any application.

The board is also removing the requirement that applications be typed or handwritten to facilitate Montana's online renewal process, which allows licensees to renew via the department's web site. In the future, the department anticipates that applications will be able to be filled out and submitted electronically as well.

The board is amending (3) to clarify the application process for licensees and staff. The board notes that the current rule language may mislead an applicant to believe that they must submit a new application if they didn't complete the first one within a year. The amendment clarifies that applicants actually have a year to submit all required documents to complete the initial application without having to submit a new application and fee. The amendment also specifies that the department will close an application submission if not completed within one year to avoid any negative impact on those applying for licensure in other states. In some states, a voluntary withdrawal has a negative inference that the applicant withdrew because there was a problem with the application but a closed application does not have such a negative inference.

The board is amending (6)(c) to require license verifications from all states where the applicant has held a license, not just where licenses are currently held. The board concluded that to ensure adequate protection of the public, it is necessary to consider an applicant's discipline on all licenses currently or previously held.

Chiropractic applicants are statutorily required in 37-12-302, MCA, to provide satisfactory evidence of good character and reputation. The board is adding (6)(d) to more clearly delineate this requirement in rule.

24.126.504 EXAMINATION REQUIREMENTS (1) The board accepts as its approved method of examination, the NBCE examination, including Parts I and II, Part III, Part IV, and physiotherapy, including physiotherapy, Part III and Part IV of the National Board of Chiropractic Examiners (NBCE) examination. In addition, the applicant must pass the state jurisprudence examination with a minimum score of 75 percent.

AUTH: 37-1-131, 37-12-201, MCA  
IMP: 37-12-304, MCA

REASON: The board is amending this rule for consistency with ARM 24.126.501 and the administration of examinations. The board concluded that a minimum passing score of 75 percent ensures adequate preparation of applicants and is amending the rule to provide adequate notice to potential exam takers.

24.126.507 TEMPORARY PERMIT (1) Temporary permit applicants may be issued a permit under 37-1-305(2), MCA, while waiting to take either Part IV of the NBCE or the Special Purposes Examination for Chiropractors (SPEC). The permit shall require the permit holder to practice under the on-premises supervision of a chiropractor licensed in the state of Montana.

(2) remains the same.

(3) A temporary permit holder may not sign insurance claims, workers' compensation claims, Medicare/Medicaid claims, or birth or death certificates. Only licensed practitioners have this authority.

(4) remains the same.

(5) Any advertisement where the temporary permit holder is named or pictured must ~~designate him/her as a pre-graduate or post-graduate intern.~~ state that the individual holds a temporary permit and if applicable, must include the designation, "intern." This designation must appear with the name of the supervising licensed chiropractor.

AUTH: 37-1-131, 37-1-319, 37-12-201, MCA

IMP: 37-1-305, MCA

REASON: The board is amending this rule to delete an internal reference to a specific MCA section to comply with ARM formatting rules and reduce the incorrect references in rule that must be changed following amendment of the referenced statute. It is reasonably necessary to amend the requirements for advertisements including temporary permit holders. The board concluded that the public is better protected when an advertisement designates the license held and whether the holder is an intern rather than the pregraduate or postgraduate intern level.

24.126.510 ENDORSEMENT (1) In order to receive a license by endorsement, license applicants shall provide proof of equal credentials from the ~~current licensing state where the license applicant holds a current, active license.~~ In instances where the applicant cannot demonstrate equal credentials, the applicant may obtain a license upon successful passage of the SPEC examination administered by the NBCE.

AUTH: 37-12-201, MCA

IMP: 37-1-131, 37-1-304, MCA

REASON: The board is amending this rule to specify that the other state's license must be an active license and to respond to an endorsement applicant who held an inactive out-of-state license. The board concluded that to ensure the licensure of qualified, safe practitioners it is necessary to require endorsement applicants hold a current, active status license in another state.

24.126.701 INACTIVE STATUS AND CONVERSION TO ACTIVE STATUS

(1) A licensed chiropractor who wishes to retain a license but who will not be practicing chiropractic in Montana may obtain an inactive status license upon submission of an application. An individual licensed on inactive status may not practice chiropractic in Montana during the period in which ~~he or she~~ the licensee remains on inactive status.

(2) An individual licensed on inactive status may convert ~~his or her~~ the inactive status license to active status by submission of an appropriate application, payment of the renewal fee for the year in question, evidence that the licensee is in good standing in all jurisdictions in which the licensee holds or has held a license, and evidence of one of the following:

(a) during each year of inactive status in this state, full-time (no less than 1500 hours per year) practice of chiropractic under a license in good standing in

another state that requires completion of continuing education substantially equivalent to that required under these rules and fulfillment of those requirements; or (b) remains the same.

AUTH: 37-1-131, 37-1-319, 37-12-201, MCA  
IMP: 37-1-319, 37-12-201, MCA

REASON: It is reasonably necessary to amend this rule to avoid potential confusion in current language and specify its applicability to licensees not practicing chiropractic in Montana. The board notes that an individual with an inactive Montana license could practice under an active license in another state. The board is also amending this rule to clarify the requirements to convert from inactive to active status. Since an inactive status Montana licensee could hold a license in another state that was disciplined or even terminated, the board is amending this rule to require proof of good standing in all jurisdictions where the licensee holds or has held a license. The board concluded this requirement is necessary to ensure an accurate decision to reactivate an inactive license and to protect the public.

The board is amending (2)(a) to clarify that not only must the state where the licensee practiced have the same continuing education requirements as Montana, but the licensee must have fulfilled the other state's requirements. While not a new requirement, the board is amending the rule to alleviate potential confusion.

24.126.704 INTERNS AND PRECEPTORS (1) ~~No student intern~~ Interns will only be allowed to practice under the direction and supervision of a licensed chiropractor (the "preceptor") in the state of Montana ~~unless the student has provided a letter from the chiropractic college the student is attending, listing the student's date of matriculation and expected graduation.~~

(2) ~~A student intern must complete an application form provided by the department and furnish current transcripts from the chiropractic college attended. Prior to acting as an intern, a pregraduate student or postgraduate must apply to the board and in so doing, must provide the following:~~

- (a) a completed application on a form provided by the department;
- (b) current transcripts from the chiropractic college attended;
- (c) a letter from the chiropractic college the student is attending that lists the student's date of matriculation and expected graduation date or a copy of a diploma;
- (d) proof of passage of the jurisprudence exam with a minimum score of 75 percent; and
- (e) a signed conditions statement from the sponsoring preceptor and the intern.

(3) ~~Student interns~~ Interns may not sign insurance claims, workers' compensation claims, Medicare claims, birth or death certificates, or other documents that require the signature of a licensed chiropractor.

(4) ~~The student intern~~ Interns shall follow the laws and rules of the board, the same as if ~~he or she~~ they were licensed as a chiropractor.

(5) Before acting as a preceptor, a chiropractor must meet the following requirements:

- (a) must be in good standing with the board; and

(b) must have a minimum of five years of practice in the state of Montana.

(6) A preceptor must comply with the following guidelines:

(a) provide malpractice insurance, if coverage over and above that which is provided by the chiropractic college is required;

(b) maintain a presence within the practice environment at all times when an intern is seeing patients;

(c) comply with the guidelines on involving an intern in the care of patients of the field doctor as required by the chiropractic college; and

(d) include a designation that the pregraduate or postgraduate intern is an "intern" on any type of advertisement. This designation must appear with the name of the licensed preceptor supervising the intern.

~~(5) All pre-graduate and post-graduate interns doing preceptorships in the state are required to take the jurisprudence exam and pass the exam with a minimum score of 75 percent.~~

~~(6) All preceptors must state that the pre-graduate or post-graduate intern is an "intern" on any type of advertisement. This designation must appear with the name of the licensed preceptor supervising the intern.~~

~~(7) The sponsoring preceptor and the student intern must submit a signed conditions statement, along with the application.~~

~~(8) The preceptor must be in good standing with the board.~~

~~(9) The preceptor must provide malpractice insurance, if coverage over and above that which is provided by the chiropractic college is required.~~

~~(10) The preceptor must have a minimum of five years of practice in the state of Montana.~~

~~(11) The preceptor must be present within the practice environment at all times when an intern is seeing patients.~~

~~(12) The preceptor must comply with the guidelines on involving an intern in the care of patients of the field doctor as required by the chiropractic college.~~

~~(13) All applications for intern/preceptor programs must be approved by the department prior to starting the program.~~

AUTH: 37-1-131, 37-12-201, MCA

IMP: 37-12-304, MCA

REASON: It is reasonably necessary to amend this rule to clarify the board's intent to accept either a copy of a diploma or a letter from the college because a postgraduate diploma will include the dates of matriculation and graduation.

#### 24.126.901 APPLICATIONS FOR CERTIFICATION OF IMPAIRMENT

EVALUATORS (1) Any licensed chiropractor desiring to be certified as an impairment evaluator to rate impairments of workers' compensation claimants or insurers shall file an application with the board.

(2) through (3)(a) remain the same.

(b) successfully completing an educational and training program relating to chiropractic orthopedics, impairment ratings, or similar course work from a Council on Chiropractic Education (CCE) status chiropractic college or any other college or university approved by the board; or

(c) by being in practice for more than five years and successfully demonstrating to the board that ~~he~~ the applicant has completed a certified program equal to that recommended by the board.

(4) remains the same.

(5) Applicants shall take and pass an impairment evaluator examination prescribed and approved by the board with a minimum ~~passing grade~~ score of 75 percent ~~on all questions asked~~.

(6) Applications shall be accompanied by official transcripts, diplomas, or similar certificates evidencing successful completion of one of the types of education and training programs approved by the board. Successful completion is deemed written certification by the course provider.

AUTH: 37-12-201, MCA

IMP: 37-12-201, MCA

REASON: It is reasonably necessary to amend this rule for consistency in use of the term "impairment evaluator" and to address confusion and inaccuracies as to the required examination and passing score.

24.126.904 MINIMUM REQUIREMENTS FOR BOARD-APPROVED PROGRAMS TO QUALIFY FOR CERTIFICATION AS AN IMPAIRMENT EVALUATORS EVALUATOR (1) remains the same.

AUTH: 37-12-201, MCA

IMP: 37-12-201, MCA

24.126.907 APPROVAL OF TRAINING PROGRAMS FOR IMPAIRMENT EVALUATORS (1) Applications for approval of training programs for impairment evaluators shall be made by letter with supporting documents and must demonstrate to the satisfaction of the board that such programs fulfill the requirements of the board.

(2) through (5) remain the same.

AUTH: 37-12-201, MCA

IMP: 37-12-201, MCA

24.126.910 IMPAIRMENT EVALUATOR CONTINUING EDUCATION RENEWAL - DENIAL - REVOCATION (1) A minimum of four hours of specialized continuing education relevant to impairment evaluation ~~must be demonstrated~~ shall be taken every four years, or within one year of a new edition to the American Medical Association's guides to the evaluation of permanent impairment.

(a) These hours must be demonstrated in order to qualify for certification renewal. This requirement is in addition to the continuing education hours required for annual renewal of licenses to practice chiropractic in this state shall be in addition to the continuing education requirement required for a renewed chiropractic license.

(b) A random audit of impairment evaluator certificate holders shall be conducted every four years to verify compliance of the continuing education requirement.

(c) A three month extension will be provided for all licensees who fail to meet the continuing education requirements as a result of an audit. Failure to meet this extension may result in disciplinary action.

(d) Any impairment evaluator seeking a hardship waiver from their continuing education requirements shall apply to the board, in writing, as soon as possible after the hardship is identified and prior to the end of the period for completing the continuing education. Specific details of the hardship must be included. The board must make a finding that a hardship exists. The waiver may be absolute or conditional.

(2) Persistent deviation from generally accepted standards for impairment evaluation is grounds for ~~denial of renewal of certification and for~~ revocation of the impairment evaluator certificate.

(3) and (4) remain the same.

AUTH: 37-1-136, 37-12-201, MCA

IMP: 37-12-201, MCA

REASON: The board is amending this rule to achieve consistency between the continuing education (CE) provisions for impairment evaluators and chiropractor licensure in New Rule II. The board is clarifying the random audit procedure and adding provisions for the extension of CE requirements and hardship waivers to allow the board to address licensee requests in these situations.

It is reasonably necessary to amend (2) to comply with 37-1-131, MCA. The board notes that failure to meet licensure renewal requirements is unprofessional conduct that may necessitate the filing of a complaint and possible discipline.

#### 24.126.2101 RENEWALS -CONTINUING EDUCATION REQUIREMENTS

(1) All chiropractors must renew their license with the board. The renewal date for a chiropractic license is set by ARM 24.101.413.

~~(1)~~(2) Renewal notices will be sent as specified in ARM 24.101.414.

~~(2)~~ The renewal date for a chiropractic license is set by ARM 24.101.413.

~~(3) All licensees shall sign an affidavit provided on the renewal application which states that they have, in the year preceding the application for renewal, attended at least 12 hours of board-approved continuing education. An annual random audit of active licensees will be conducted to verify compliance.~~

~~(a) In the first full year of licensure, new graduates can fulfill the continuing education requirement by attending one session of the "new doc seminar" in lieu of the 12-hour continuing education requirement. This provision does not apply to out-of-state applicants applying for licensure by endorsement or reciprocity.~~

~~(4) The board will require each licensee to demonstrate successful completion of a professional boundary and ethics continuing education course. Four hours of professional boundaries and ethics continuing education will be in addition to the 12-hour continuing education annual requirement. Each licensee will be~~



~~required to complete the course once every four years beginning September 1, 2006.~~

~~(5)(3)~~ A license that is not renewed within two years of the most recent renewal date automatically terminates. The terminated license may not be reactivated, and a new original license must be obtained by ~~passing the special purposes examination for chiropractic (SPEC) administered by the National Board of Chiropractic Examiners~~ submitting a new application and meeting all the requirements of ARM 24.126.501 and paying the appropriate fees in accordance with ARM 24.101.403. An applicant who has previously held a license that is terminated and who has not engaged in the practice of chiropractic for more than three years will be considered a nonroutine application, and will be reviewed by the board.

~~(6) The provisions of ARM 24.101.408 apply.~~

~~(7) The board shall approve on a case-by-case basis all continuing education programs that it determines in its discretion to be related to the practice of chiropractic.~~

~~(8) Clock hours of continuing education cannot be accumulated and carried over from one renewal year to the next renewal year.~~

~~(9) It shall be necessary for those attending the Montana Chiropractic Association meetings to register with the secretary of the association each day of attendance.~~

~~(4)~~ All licensees shall notify the department of any change in mailing addresses.

AUTH: ~~37-1-134~~, 37-1-319, 37-12-201, MCA

IMP: ~~37-1-134~~, 37-1-141, 37-1-306, 37-1-319, MCA

REASON: It is reasonable and necessary to remove the continuing education (CE) provisions from this rule for ease of use and to comply with ARM formatting requirements. The CE provisions are set forth in New Rules I and II.

The board is adding (1) and specifically stating that chiropractors are required to renew their licenses annually to address licensees who may not renew simply because they did not receive a renewal notice. The board is deleting the affidavit requirement for renewals to better facilitate the online renewal process.

Terminated licensees will no longer be required to take and pass the SPEC exam but must comply with original licensure requirements in ARM 24.126.501. The board determined that to ensure adequate public protection, terminated applicants with three years of nonpractice will be considered nonroutine and require the board's review. The board reviews all nonroutine applications and may determine that an applicant must take the SPEC exam.

24.126.2301 UNPROFESSIONAL CONDUCT (1) and (1)(a) remain the same.

(i) misstatements, falsehoods, misrepresentations, or distorted and fabulous statements relative to cures or treatments;

(ii) remains the same.

(iii) personal advertising claiming particular abilities, features, or accomplishments regarding the licensee or areas of specialty practice unless documentation of such abilities, features, accomplishments, or specialties are documented with the board prior to placing the advertisement;

(b) engaging in or soliciting sexual relations with a patient, sexual misconduct either verbal or physical, sexual contact, sexual exploitation, or a sex offense, as defined in 45-2-101, MCA, when such act or solicitation is related to the practice of chiropractic;

(c) through (e) remain the same.

~~(f) collecting fees or charges for services or treatment different from the fee or charge the licensee submits to a third-party payer for that service or treatment, except as hereinafter provided. This subsection is intended to prohibit offering the above listed practices to the public as well as the actual practices, except that, in instances where the intent is not to collect an excessive remuneration from the third-party payer, but rather to provide services at a reduced rate to a patient unable to afford the deductible or co-payment, the services may be performed for a lesser charge or fee. The burden of proof for establishing that this is the case shall be on the licensee; billing charges or fees to a third-party payer or collecting from a third-party payer on behalf of a patient at a different rate than the charge or fee actually billed to or collected from the patient. In the case where services are provided at a reduced rate to a patient because of the patient's inability to pay for the services at their regular or undiscounted rate, any charge or fee billed to or collected from a third party must be based upon the actual reduced rate billed to the patient;~~

(g) engaging in, or providing services or treatments which are in excess of those warranted by either the patients' condition and response or the practice technique, methodology, or modality applied and are not consistent with the seriousness of diagnosis;

(h) through (k)(iii) remain the same.

(iv) a chaperone is present at all times the patient is examined and treated intrarectally;

(l) falsifying, altering, or making incorrect essential entries or failing to make essential entries of patient records;

~~(m) violating any state, federal, provincial, or tribal statute or administrative rules rule governing or affecting the professional conduct of any licensee;~~

(n) and (o) remain the same.

(p) failing to render adequate supervision, management, training, or control of auxiliary staff or other persons, including preceptors, temporary permit holders, and/or licensees practicing under the licensee's supervision or control according to generally accepted standards of practice;

(q) and (r) remain the same.

(s) charging or collecting a clearly excessive fee. In determining if a fee is clearly excessive the board shall consider the fee or range of fees customarily charged in the state for similar services in light of modifying factors such as the time required, the complexity of the service, and the skill requisite to perform the service properly. This subdivision does not apply if there is a clear written contract for a fixed fee between the physician and the patient that has been entered into before the service was provided;

(t) engaging in the practice of chiropractic when the licensee's license is inactive, has expired, or has been suspended or revoked.

AUTH: 37-1-131, 37-1-319, 37-12-201, MCA

IMP: 37-1-131, 37-1-141, 37-1-316, 37-12-201, 37-12-301, 37-12-322,  
MCA

REASON: The board determined the language in (1)(f) is unnecessarily confusing and is amending it accordingly. The board is adding (1)(s) to identify the charging or collecting of clearly excessive fees as unprofessional conduct for chiropractors. The board screening panel previously considered this type of conduct via the complaint process and determined it to be unprofessional. It is unlawful to engage in the practice of chiropractic without a current, valid license. The board is adding (1)(t) to delineate this unlicensed chiropractic practice as unprofessional conduct.

5. The proposed new rules provide as follows:

NEW RULE I APPROVED CONTINUING EDUCATION (1) Continuing education approved by the board must directly relate to the practice of chiropractic and shall be affiliated with national, regional, or state chiropractic associations, state licensing boards, academies, colleges of chiropractic, or education approved by the Federation of Chiropractic Licensure Board (FCLB) Providers of Approved Continuing Education (PACE).

(2) From the date of their original licensure in Montana until the end of the first renewal period, new licensees can fulfill the continuing education requirement by attending one session of the "new doc seminar" in lieu of the 12-hour continuing education requirement.

(3) All licensees can receive two credits for each chiropractic board meeting attended.

(4) All Internet courses must meet the same guidelines for continuing education approval.

(5) The board shall not approve a course of study if it is considered outside the "scope of practice" for a chiropractor in Montana.

(6) All continuing education not listed in this rule must be submitted for review and approval by the board on a case-by-case basis.

AUTH: 37-1-319, 37-12-201, MCA

IMP: 37-1-141, 37-1-306, 37-1-319, MCA

REASON: It is reasonably necessary to adopt this new rule to clearly delineate the requirements for board approval of continuing education (CE) courses. Setting forth the requirements will enable staff to review and approve CE in compliance with (1) and forward noncompliant CE to the board for review.

NEW RULE II CONTINUING EDUCATION REQUIREMENTS (1) Every licensee shall complete a minimum of 12 hours of board approved continuing education during each renewal period as defined in ARM 24.101.413. All active

licensees shall affirm on all subsequent renewal applications that they have attended and successfully completed a minimum of 12 hours of board approved continuing education in the year preceding the application for renewal. Of the 12 hours, no more than two hours can be in the subject area of philosophy and/or practice management. In addition, the board will require each licensee to demonstrate successful completion of a professional boundary and ethics continuing education course. Four hours of professional boundaries and ethics continuing education will be in addition to the 12-hour continuing education annual requirement. Each licensee will be required to complete the course once every four years. New licensees to the state of Montana have from the date of their original licensure in Montana until the end of their first renewal year to complete their first 12 hours of continuing education, and shall affirm on their second renewal application that they have attended and successfully completed a minimum of 12 hours of board approved continuing education during that period.

(2) Licensees transferring from inactive to active shall abide by the continuing education requirements outlined in ARM 24.126.701.

(3) An annual random audit of 10 percent of active licensees will be conducted to verify compliance of the continuing education requirements.

(4) Clock hours of continuing education cannot be accumulated and carried over from one renewal year to the next renewal year.

(5) It shall be necessary for those attending the Montana Chiropractic Association educational meetings to register with the secretary of the association each day of attendance to receive continuing education credit.

(6) A three-month extension will be provided for all licensees who fail to meet the continuing education requirements as a result of an audit. Failure to meet this extension may result in disciplinary action.

(7) Any licensee seeking a hardship waiver from their continuing education requirements shall apply to the board, in writing, as soon as possible after the hardship is identified and prior to the close of licensure for that year. Specific details of the hardship must be included. The board must make a finding that a hardship exists. The waiver may be absolute or conditional.

AUTH: 37-1-134, 37-1-319, 37-12-201, MCA

IMP: 37-1-134, 37-1-141, 37-1-306, 37-1-319, MCA

REASON: It is reasonably necessary to adopt this rule to clearly set forth the continuing education (CE) requirements in a separate rule and incorporate CE provisions previously set forth in ARM 24.126.2101.

The board is limiting the number of CE hours in philosophy and/or practice management that count toward the annual 12-hour requirement. While relevant to a general professional practice, the board concluded the majority of the CE should be directly related to the practice of chiropractic.

The board is clarifying CE requirements for new licensees to avoid confusion regarding renewal periods for new licenses. The new language will hopefully clarify that newly licensed chiropractors have until the end of the first full annual renewal period to complete and affirm their completion of the required CE hours.

The board added language to (2) to direct licensees converting from inactive to active status to ARM 24.126.701 for their continuing education requirements.

The board determined that a random audit of 10 percent of active licensees is sufficient to accurately assess CE compliance and is also feasible for staff. Although not a new process, the audit percentage was not previously delineated in rule.

The board determined it is reasonably necessary to add provisions for the extension of CE requirements and hardship waivers. The board is adding (6) to provide a three-month extension for audited licensees to meet CE requirements before facing possible discipline. The board is including (7) to allow the board to consider and grant absolute or conditional hardship waivers upon licensee request.

6. 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 Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to [dlibsdcchi@mt.gov](mailto:dlibsdcchi@mt.gov), and must be received no later than 5:00 p.m., July 18, 2008.

7. An electronic copy of this Notice of Public Hearing is available through the department and board's site on the World Wide Web at [www.chiropractor.mt.gov](http://www.chiropractor.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.

8. The Board of Chiropractors 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 of Chiropractors 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 Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to [dlibsdcchi@mt.gov](mailto:dlibsdcchi@mt.gov), or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor notice requirements of 2-4-302, MCA, do not apply.

10. Anjeanette Lindle, attorney, has been designated to preside over and conduct this hearing.

BOARD OF CHIROPRACTORS  
DR. THOMAS FULLERTON, PRESIDENT

/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 June 2, 2008.