

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

In the matter of the amendment of )  
ARM 24.126.510 endorsement, )  
24.126.701 inactive status and )  
conversion, 24.126.904 minimum )  
requirements for impairment )  
evaluators, and the adoption of NEW )  
RULE I prepaid treatment plans )

NOTICE OF PUBLIC HEARING ON  
PROPOSED AMENDMENT AND  
ADOPTION

TO: All Concerned Persons

1. On November 5, 2010, at 10:00 a.m., a public hearing will be held in room 439, 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 October 29, 2010, to advise us of the nature of the accommodation that you need. Please contact Dennis Clark, 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.

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

24.126.510 ENDORSEMENT (1) In order to receive a license by endorsement, license applicants shall provide proof of equal ~~credentials~~ licensure requirements from the 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. All applications by endorsement are reviewed by the board on a case-by-case basis.

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

REASON: The board determined it is reasonably necessary to amend (1) to address confusion as to the meaning of "credentials." The board is replacing "credentials" with "licensure requirements" to clarify that the term designates what each state requires for licensure and not a licensee's entitlements. The board is adding the last sentence to clarify that the board considers all endorsement

applications to be nonroutine and reviews each application individually to determine the applicant's demonstration of equal credentials for licensure.

24.126.701 INACTIVE STATUS AND CONVERSION TO ACTIVE STATUS

(1) remains the same.

(2) An individual licensed on inactive status may convert 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~~ any and all chiropractor licenses in other jurisdictions are unrestricted with no pending discipline, and evidence of one of the following:

(a) and (b) remain the same.

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

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

REASON: The board is amending this rule in response to recent public inquiry to clarify the board's intent as to the meaning of "good standing" of other licenses. Implementation cites are being amended to accurately reflect all statutes implemented through the rule.

24.126.904 MINIMUM REQUIREMENTS FOR BOARD-APPROVED PROGRAMS TO QUALIFY FOR CERTIFICATION AS AN IMPAIRMENT EVALUATOR

(1) In order to qualify for board approval, programs shall include a minimum of 36 hours of classroom course work consisting of 24 hours of education in impairment rating from a college certified by the Council on Chiropractic Education, and 12 hours in a course on impairment rating utilizing the current edition of the ~~Journal of American Medical Association (JAMA) Guidelines~~ Guides to Evaluation of Permanent Impairment published by the American Medical Association.

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

IMP: 37-1-131, 37-12-201, 37-71-711, MCA

REASON: The board determined it is reasonably necessary to amend this rule to eliminate confusion and maintain consistency with impairment rating terminology used in 39-71-711, MCA. Authority and implementation cites are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

4. The proposed new rule provides as follows:

NEW RULE I PREPAID TREATMENT PLANS (1) Licensed chiropractors accepting prepayment for services planned, but not yet delivered must:

(a) Establish an escrow account to hold all prepayment funds.

(i) Funds may be removed from the escrow account following the delivery of services, in such amounts equal to the chiropractor's usual and customary charges for like services, with any discounted percentage contained in a written contract.

(ii) Funds received in advance of the day services are delivered must be deposited into the escrow account in a timely manner.

(b) Maintain in the patient's file the following:

(i) A proposed treatment plan, including enumeration of all aspects of evaluation, management, and treatment planned to therapeutically benefit the patient relative to the condition determined to be present and necessitating treatment.

(ii) A contract outlining beginning and ending dates and a proposed breakdown of the proposed treatment frequency, types of modalities, and procedures included in the contracted treatment, methods of evaluating the patient's progress or serial outcome assessment plan, method of recording or assessing patient satisfaction, and any necessary procedures for refunding payments provided for any care not received within a reasonable amount of time.

(iii) A consent for treatment document specifying the condition for which the treatment plan is formulated, prognosis and alternate treatment options.

(2) The chiropractor is responsible for providing all treatment appropriate and necessary to address and manage the condition, including unforeseen exacerbations or aggravations within the chiropractor's licensure that may occur during the course of time for which the contract is active. This does not include alternative services procured by the patient or treatment by providers other than the treating chiropractor or those under the chiropractor's direct supervision.

(3) If nutritional products or other hard goods including braces, supports, or patient aids are to be used during the proposed treatment plan, the contract must state whether these items are included in the gross treatment costs or if they constitute a separate and distinct service and fee.

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

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

REASON: The board determined it is reasonable and necessary to adopt this new rule to address an increasing number of complaints and inquiries from the public regarding the prepayment of services and lack of refunds for services not received. The board concluded that it is in the public's best interest to require that all chiropractors who take money for services not yet rendered place the funds in an escrow account for safekeeping and accountability, and retain certain documents in the client's file. The board is delineating what should be included in a contract to ensure consistency with a 2009 amendment to the unprofessional conduct rule.

5. 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., November 12, 2010.

6. 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.

7. 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 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 [dlibschi@mt.gov](mailto:dlibschi@mt.gov); or made by completing a request form at any rules hearing held by the agency.

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

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

BOARD OF CHIROPRACTORS  
JOHN SANDO, DC, 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 October 4, 2010