

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

In the matter of the amendment of )  
ARM 24.126.301 definitions, )  
24.126.704 interns and preceptors, )  
24.126.901 applications for )  
certification, 24.126.2101 renewals, )  
and 24.126.2103 and 24.126.2105 )  
continuing education )

NOTICE OF PUBLIC HEARING ON  
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On November 18, 2011, at 10:00 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 Board of Chiropractors (board) no later than 5:00 p.m., on November 10, 2011, 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 dlibschi@mt.gov.

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

24.126.301 DEFINITIONS (1) and (2) remain the same.

(3) "Dietetic methods" as used in 37-12-104, MCA, shall mean any service, when performed, or ordered to be performed, by any licensed chiropractor, for therapeutic effects, which may employ recommending, and/or giving of any food, vitamin, mineral, herb, enzyme, glandular product, homeopathic preparation, diet plan, or other nutritional substance not requiring a medical prescription.

(4) remains the same.

(5) "Nonroutine application" means an application submitted to the division in which the application is defined as nonroutine either by ARM 24.101.402 or by these rules.

(a) A nonroutine application means that according to the application, the applicant reveals that one or more of the following scenarios apply to the applicant:

(i) they have voluntarily surrendered, cancelled, forfeited, or failed to renew a license as a result of any of the following:

(A) a complaint filed against them;

(B) a consent agreement; or

(C) an investigation or disciplinary proceedings;

(ii) they have voluntarily or involuntarily surrendered their privileges to provide services to health maintenance organizations, Medicare/Medicaid, or other payers, or have voluntarily or involuntarily surrendered hospital privileges, health maintenance organization participation, Medicare/Medicaid, or other payers during a pending investigation or in anticipation of an investigation, or have had such privileges reprimanded, denied, restricted, suspended, placed on probation, revoked, or subjected to other sanction or action;

(iii) they have been expelled from or asked to resign from any professional organization, or have been censured by a professional organization;

(iv) they have had civil or criminal charges pending or have pleaded guilty, forfeited bond, or been convicted of a crime (including plea of no contest or deferred prosecution), whether or not an appeal is pending, with the exception of the following:

(A) minor-in-possession charges or convictions;

(B) one misdemeanor committed more than five years ago; or

(C) traffic offenses, unless the illegal use or possession of alcohol or drugs are involved;

(v) the applicant's health care professional license was disciplined or was voluntarily surrendered in another state or jurisdiction; and

(vi) there are inconsistencies in the application or in the supporting documentation of the application, or any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.

~~(5)~~ (6) "Physiotherapy" as used in 37-12-104, MCA, shall mean any service, when performed, or ordered to be performed, by any licensee, employing for therapeutic effects, physiological measures, activities, and devices for preventive and therapeutic purposes, physiological agents including, but not limited to, mechanical devices, heat, air, light, water, electricity, sound, exercise, rehabilitative procedures, massage, and mobilization, when performed for the purpose of diagnosis, evaluation, treatment, and instruction of the human body to detect, assess, correct, alleviate, prevent, and limit physical disability, injury, body malfunction, pain, mental condition by the aforementioned agents, or any other procedure taught in chiropractic colleges for the purpose of preventing, correcting, or alleviating a physiological or mental disability or condition.

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

IMP: 37-1-131, 37-12-104, 37-12-201, MCA

REASON: Per 37-1-101, MCA, department staff can issue and renew routine licenses on behalf of the boards. The board is adding the definition of nonroutine application to clarify which applications need full board review and which can be processed by staff.

24.126.704 INTERNS AND PRECEPTORS (1) remains the same.

(2) 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) through (6) remain the same.

(7) An intern license is valid for 12 consecutive months and is nonrenewable.

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

IMP: 37-12-201, ~~37-12-304~~, MCA

REASON: The board is amending this rule to address questions on how long internships are valid. The board concluded that 12 months is sufficient for interns to submit school transcripts and complete and pass the required examination. The board believes internships should be a temporary status prior to full licensure and the board does not intend for interns to continuously renew their licenses. Implementation cites are being amended to accurately reflect all statutes implemented through the rule.

24.126.901 APPLICATIONS FOR CERTIFICATION OF IMPAIRMENT EVALUATORS (1) remains the same.

(2) Applicants shall have been in active clinical practice in Montana for a minimum of ~~one year~~ 12 consecutive months, immediately preceding application.

(3) remains the same.

(a) successfully completing a board-approved program for education and training of certified chiropractic impairment evaluators, and passing the associated exam with a minimum of ~~75%~~ 75 percent; or

(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, and passing the associated exam with a minimum of ~~75%~~ 75 percent; or

(c) through (5) remain the same.

AUTH: 37-12-201, MCA

IMP: 37-12-201, MCA

REASON: The board is amending this rule to address applicant questions regarding the active practice requirement for impairment evaluator certification, including having active clinical practice in Montana for one year, but several years prior to making application. The board determined that actual recent practice is vital to becoming an impairment evaluator.

24.126.2101 RENEWALS (1) All chiropractors must renew their license with the board by submitting a renewal form and fee. The renewal date for a chiropractic license is set by ARM 24.101.413.

(2) remains the same.

(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 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.

(4) remains the same.

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

IMP: ~~37-1-131, 37-1-141, 37-1-306, 37-1-319~~, MCA

REASON: The board is amending this rule upon staff request to specify the steps for licensees to renew their licenses. 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.

24.126.2103 CONTINUING EDUCATION REQUIREMENTS (1) ~~Every~~ Beginning with the 2012 renewal, every licensee shall ~~complete~~ affirm that they have completed a minimum of ~~12~~ 13 hours of ~~board-approved~~ 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~~ 13 hours of ~~board-approved~~ board-approved continuing education in the year preceding the application for renewal. Of the ~~12~~ 13 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. Of the 13 hours, one hour must be obtained in professional boundaries or ethics. The board will only grant credit for a maximum of one hour in professional boundaries or ethics.~~ 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~~ 13 hours of continuing education, and shall affirm on their second renewal application that they have attended and successfully completed a minimum of ~~12~~ 13 hours of ~~board-approved~~ board-approved continuing education during that period.

(2) through (7) remain the same.

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: The board is amending this rule to address numerous questions from licensees and board staff regarding the time period to obtain professional boundaries or ethics credits, specifically when the four years begin and who keeps track of licensees' four-year intervals. The board concluded that the subjects of professional boundaries and ethics are too important to only require them every four years and is amending this rule to require the one hour of professional boundaries or ethics every renewal. 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.

24.126.2105 APPROVED CONTINUING EDUCATION (1) remains the same.

(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 ~~42-hour~~ 13-hour continuing education requirement.

(3) through (6) remain the same.

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

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

REASON: The board is amending this rule to align with the changes to CE hours in ARM 24.126.2103.

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 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 28, 2011.

5. 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.

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 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.

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

8. 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 17, 2011