

BEFORE THE BOARD OF BARBERS AND COSMETOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT AND
ARM 24.121.301 definitions,) ADOPTION
24.121.403 general requirements,)
24.121.601 licensure by examination,)
24.121.603 out-of-state applicants,)
24.121.605 postsecondary school)
licensure, 24.121.611 examination)
requirements and process,)
24.121.803 school requirements,)
24.121.805 school operating)
standards, 24.121.807 school)
curricula, 24.121.809 student)
withdrawal, transfer, or graduating,)
24.121.1103 instructor requirements,)
24.121.1105 teacher-training)
curriculum, 24.121.1301 salons/booth)
rental, 24.121.1509 implements,)
instruments, supplies, and)
equipment, 24.121.1517 salon)
preparation storage and handling,)
24.121.2101 continuing education,)
24.121.2301 unprofessional conduct,)
and the adoption of NEW RULES I)
nonroutine application, II granting)
exception, III licensure equivalency,)
IV credited hours for Montana-)
licensed individuals, V inactive)
instructor license, and VI licensee)
and applicant contact information)

TO: All Concerned Persons

1. On June 11, 2015, the Board of Barbers and Cosmetologists (board) published MAR Notice No. 24-121-12 regarding the public hearing on the proposed amendment and adoption of the above-stated rules, at page 705 of the 2015 Montana Administrative Register, Issue No. 11.

2. On July 2, 2015, a public hearing was held on the proposed amendment and adoption of the above-stated rules in Helena. Several comments were received by the July 10, 2015, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: One commenter asked the board to amend ARM 24.121.601 to define the term "approved school," since the board does not approve schools outside of Montana, and it is not known what is meant by the term regarding schools not licensed by the board.

RESPONSE 1: The term "approved school" is not new. While the board appreciates the problem noted by this commenter and agrees that the solution is to define the term, the board concluded it is not necessary to delay the current rules project just to insert such a definition. Additionally, because a new definition would be outside the scope of this adoption notice, the board will consider defining the term in a future rules project.

COMMENT 2: A commenter suggested, in relation to the proposed amendments to ARM 24.121.601, the board not require proof of a high school diploma or its equivalent of applicants who completed their formal training at a Montana-licensed school, since Montana's licensed schools now qualify as "post-secondary" schools that may already address this requirement.

RESPONSE 2: The board concluded that staff must document the high school completion requirement as part of the licensing process, as post-secondary schools may admit a percentage of students based on age, without respect to completion of high school or of a high school equivalent.

COMMENT 3: One commenter noted an incorrect reference to "electrology" training in ARM 24.121.603(4)(e), and suggested the rule should instead refer to "esthetician" training.

RESPONSE 3: The board agrees with the commenter and is amending the rule accordingly.

COMMENT 4: A commenter stated that ARM 24.121.611(1)(b) improperly requires an examination candidate to submit a photo ID at the time of examination, since the examination administrator is in control of that process. The commenter also suggested the board would not want to continually amend its rules to keep up with an examination administrator's requirements.

RESPONSE 4: The board understands that examination administrators provide services to the board pursuant to contract, and such services may not necessarily be immediately impacted by this rule amendment. However, the board is amending this rule exactly as proposed because the board intends to require this same provision in contract.

COMMENT 5: One commenter suggested that ARM 24.121.1301 be amended so that a change of status imposed against a personal license in the disciplinary process also be, as an operation of law, imposed against a booth renter license held by the same licensee.

RESPONSE 5: While this suggestion is appealing to the board, the board concluded it is not necessary to make the suggested change immediately. To avoid delaying the implementation of the proposed rule changes, the board is amending the rule exactly as proposed and will consider the commenter's suggestions in a subsequent rules project.

4. The board has amended ARM 24.121.301, 24.121.403, 24.121.601, 24.121.605, 24.121.611, 24.121.803, 24.121.805, 24.121.807, 24.121.809, 24.121.1103, 24.121.1105, 24.121.1301, 24.121.1509, 24.121.1517, 24.121.2101, and 24.121.2301 exactly as proposed.

5. The board has adopted NEW RULES I (24.121.406), II (24.121.610), III (24.121.604), IV (24.121.808), V (24.121.608), and VI (24.121.612) exactly as proposed.

6. The board has amended ARM 24.121.603 with the following changes, stricken matter interlined, new matter underlined:

24.121.603 LICENSURE BY CREDENTIALING WITH AN OUT-OF-STATE LICENSE (1) through (4)(d) remain as proposed.

(e) To qualify for an esthetician license the applicant must possess a license type in good standing that includes the scope of training and practice equal to [New Rule III(5)] and either have completed at least 400 hours of electrology esthetician training in a school or attest to at least 750 hours of work experience as a licensed esthetician.

(f) through (9) remain as proposed.

BOARD OF BARBERS AND
COSMETOLOGISTS
WENDELL PETERSEN, PRESIDENT

/s/ DARCEE L. MOE
Darcee L. Moe
Rule Reviewer

/s/ PAM BUCY
Pam Bucy, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 3, 2015