

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.121.301 definitions,)	PROPOSED AMENDMENT AND
24.121.403 general requirements,)	ADOPTION
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 July 2, 2015, at 10:00 a.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, 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 Barbers and Cosmetologists (board) no later than 5:00 p.m., on June 26, 2015, to advise us of the nature of the accommodation that you need. Please contact Sharon Peterson, Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana

59620-0513; telephone (406) 841-2375; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdcos@mt.gov (board's e-mail).

3. GENERAL STATEMENT OF REASONABLE NECESSITY: As part of the periodic review of its administrative rules, the board is proposing revisions throughout the rules. Amendments in this notice are intended to correct prior errors, improve organization and readability, make language more consistent among the rules, and better align the board's rules with statutory requirements. 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:

24.121.301 DEFINITIONS (1) through (4) remain the same.

(5) ~~"Booth rental" means an establishment or business attached to or within a licensed salon or shop that is operated independently by a licensed booth renter.~~

(6) through (22) remain the same, but are renumbered (5) through (21).

(a) ~~toe (teeth)~~ tapering (toe or teeth, middle, heel);

(b) through (d) remain the same.

(23) and (24) remain the same, but are renumbered (22) and (23).

(24) "Locker" means a chest, drawer, compartment, closet, or the like that is placed in a set location in a school, made of metal or other rigid and sturdy material, and may be locked for storage and safekeeping of clothing, valuables, and other personal belongings of students only, and is not subject to entry by a board inspector.

(25) remains the same.

(26) ~~"Microdermabrasion" means a gentle, progressive, very superficial mechanical exfoliation of the uppermost layers of the stratum corneum using a closed-loop vacuum system that utilizes aluminum oxide or corundum crystals as the abrasive material.~~

(27) through (29) remain the same.

~~(30) "Trade show" is a show or class which offers specific product knowledge, product information, product sales, or retail of product.~~

(31) through (36) remain the same, but are renumbered (30) through (35).

AUTH: 37-1-131, 37-1-319, 37-31-203, 37-31-204, MCA

IMP: 37-31-101, 37-31-203, 37-31-204, 37-31-303, 37-31-305, 37-31-309, 37-31-311, MCA

REASON: The board is deleting the term "booth rental" because "booth" is already defined in board statute and should not be also defined in rule. The board is amending "free-hand methods" in (21) to clarify the term regarding free-hand clipper style for tapering, and align with terminology used in barber courses of licensed schools. Following a request by school owners, students, and board inspectors, the board is amending this rule to clearly define "locker" at (24). It is reasonably

necessary to amend (26) to align the term "microdermabrasion" with other amendments in this notice to permit use of other types of abrasive material or reusable heads. Lastly, the board is deleting the definition of "trade show" since the board is amending the term out of ARM 24.21.2101, which is the only place it is used in board rule.

24.121.403 GENERAL REQUIREMENTS (1) remains the same.

(2) Applications received by the board will be reviewed for completeness. If the application is not complete, the applicant has ~~480 days~~ one year in which to supply the remaining information or documents. If the application is not completed within ~~480 days~~ one year, the application is ~~rejected~~ times out, and the applicant shall be required to submit a new application package and fees.

(3) through (10) remain the same.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-31-301, 37-31-302, 37-31-303, 37-31-304, 37-31-305, 37-31-309, 37-31-311, MCA

REASON: The board is amending this rule to facilitate the standardization of application processes among all professional and occupational licensing boards by utilizing a one-year limit on applications. This change will also help avoid the early expiration of applications delayed by the wait for state licensure verifications, various practical exam testing schedules, and supplementing nonroutine applications for the board's review.

24.121.601 APPLICATIONS FOR LICENSURE BY EXAMINATION (4)

~~Applicants for licenses to practice shall obtain a license within three years of the applicant's graduation date from a licensed school.~~

~~(2) Applicants previously licensed may apply for licensure within three years of termination of license by meeting current board licensing requirements and successfully passing the board-approved exam.~~

~~(3) Applicants for licensure shall submit the following documentation:~~

~~(a) hour records showing the following hours completed:~~

~~(i) barbering - 1500;~~

~~(ii) cosmetology - 2000;~~

~~(iii) electrology - 600;~~

~~(iv) esthetics - 650;~~

~~(v) manicuring - 350; or~~

~~(vi) supplemental barbering - 150.~~

~~(b) a barbering, cosmetology, electrology, esthetics, or manicuring school diploma from a board-licensed school;~~

~~(c) proof of high school graduation or equivalency. A manicurist applicant may provide a certificate of completion from a vocational-technical program;~~

~~(d) copy of a birth certificate or other verifiable evidence of applicant's birth date; and~~

~~(e) proof of passage of a board-approved examination.~~

~~(4) In lieu of a high school diploma or equivalency, applicants may petition the board for an exception by submitting the following information:~~

~~(a) certified copies of applicant's high school transcripts; and/or~~

~~(b) lists of courses completed including:~~

~~(i) adult education courses;~~

~~(ii) postsecondary education courses; and~~

~~(iii) other experiences providing evidence to equivalency of a high school diploma.~~

~~(5) The board shall accept hours of instruction from jurisdictionally licensed schools located outside Montana towards fulfillment of the hour requirements for the various categories of licenses.~~

~~(6) Out-of-state student applicants shall meet the same requirements as in-state barbering, cosmetology, electrology, esthetics, or manicuring students.~~

~~(7) An applicant who has completed 1500 hours of barbering instruction or more, possesses a current barbering license, and enrolls in a course of cosmetology, shall receive 1500 hours of credit toward the 2000-hour requirement for a cosmetologist license.~~

~~(8) An applicant who has completed 2000 hours of cosmetology instruction and possesses a current cosmetology license shall complete an additional 125 hours in clipper cuts and 25 hours in shaving to qualify for barbering licensure.~~

~~(9) An applicant who has completed 650 hours of training or more, possesses a current esthetics license, and enrolls in a course of cosmetology, shall receive 650 hours of esthetics credit toward the 2000-hour requirement for a cosmetologist license.~~

~~(10) An applicant who has completed 350 hours of training or more, possesses a current manicurist license, and enrolls in a course of cosmetology will be granted 350 hours of credit toward the 2000-hour requirement for a cosmetologist license.~~

(1) Applicants for licensure must submit a completed application on forms provided by the department, electronically or by paper, including appropriate fees and required documentation.

(2) Applicants may qualify for licensure by one of two licensure methods:

(a) examination; or

(b) credentialing.

(3) To qualify for licensure by examination, the applicant must submit the following:

(a) For a barber license:

(i) proof of age;

(ii) proof of graduation from an approved school or course of barbering with at least 1,500 hours of training as provided in [NEW RULE III(3)]; or, if a Montana-licensed cosmetologist, completion of a supplemental barbering course pursuant to [NEW RULE IV];

(iii) proof of high school diploma or its equivalent as provided in [NEW RULE III]; and

(iv) proof of passage of a board-approved examination in barbering.

(b) For a cosmetology license:

(i) proof of age;

- (ii) proof of graduation from an approved school or course of cosmetology with at least 2,000 hours of training as provided in [NEW RULE III(3)];
- (iii) proof of high school diploma or its equivalent as provided in [NEW RULE III]; and
- (iv) proof of passage of a board-approved examination in cosmetology.
- (c) For an electrology license:
 - (i) proof of age;
 - (ii) proof of graduation from an approved school or course of electrology with at least 600 hours of training as provided in [NEW RULE III(4)];
 - (iii) proof of high school diploma or its equivalent as provided in [NEW RULE III]; and
 - (iv) proof of passage of a board-approved examination in electrology.
- (d) For a manicurist license:
 - (i) proof of age;
 - (ii) proof of graduation from an approved school or course of manicuring with at least 400 hours of training as provided in [NEW RULE III(5)];
 - (iii) proof of high school diploma or its equivalent as provided in [NEW RULE III]; and
 - (iv) proof of passage of a board-approved examination in manicuring.
- (e) For an esthetician license:
 - (i) proof of age;
 - (ii) proof of graduation from an approved school or course of esthetics with at least 650 hours of training as provided in [NEW RULE III(6)];
 - (iii) proof of high school diploma or its equivalent as provided in [NEW RULE III]; and
 - (iv) proof of passage of a board-approved examination in esthetics.
- (f) For an instructor license:
 - (i) proof of a current Montana license under this chapter for barbering, cosmetology, electrology, manicuring, or esthetics;
 - (ii) proof of graduation from an approved school or course of teacher training with at least 650 hours of training as outlined in ARM 24.121.1105, or three years of experience working in the area of practice pursuant to 37-31-305, MCA;
 - (iii) proof of high school diploma or its equivalent as provided in [NEW RULE III]; and
 - (iv) proof of passage of a board-approved examination in teacher training.
- (4) Applicants by examination who have never been licensed and who completed their professional education out of state must meet the same requirements as an applicant from Montana.
- (5) Individuals who have been previously licensed in Montana under this chapter, and whose license has terminated, must reapply under one of the licensing methods.
- (6) Applications will automatically time out after one year following the application open date. If an application has timed out, the applicant must reapply and pay all appropriate fees.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-31-303, 37-31-304, 37-31-308, MCA

REASON: The board is amending this rule and ARM 24.121.603 and adopting New Rules II, III, and IV to define licensure qualifications to meet the growing challenge of evaluating fragmented and variously defined license types and training from other jurisdictions. The board is proposing these changes to provide a cafeteria approach to evaluating licensure qualifications and allow applicants trained for a scope of practice not consistent with any particular Montana license to receive recognition of that training in applying for Montana licensure

Additionally, the board recognizes that training for practice areas relative to barbering and cosmetology in Montana is largely accomplished through hands-on experience. Thus, the board finds it appropriate, especially in conjunction with the cafeteria-style approach to evaluating licensure qualifications, to also consider and apply relevant work experience toward licensure requirements.

24.121.603 LICENSURE BY CREDENTIALING WITH AN OUT-OF-STATE APPLICANTS LICENSE ~~(1) Applicants other than barbers tested and licensed in states administering a nationally recognized written and practical examination and having received a scaled score as required for licensure in Montana, may qualify for licensure by endorsement.~~

~~(2) A barber applicant will qualify for licensure by endorsement without examination by submitting a complete application, all required documentation, by meeting the requirements of 37-31-304, MCA, and the following:~~

~~(a) proof of completion of 1500 hours of training in an approved school of barbering or barbering course;~~

~~(i) For the purposes of 37-1-304, MCA, "substantially equivalent" for barbers means 1500 hours of formal training and successful completion of a board-approved examination by a passing score set forth in rule. Applicants who have not completed 1500 hours of formal training shall be required to pass a board-approved examination as specified in rule. Work experience obtained in the profession will not be considered as part of a barbering applicant's qualifications or credit for hours.~~

~~(ii) The applicant will be credited for the hours of formal training currently required in that state or the hours shown in the transcript or verification.~~

~~(b) copy of a birth certificate or other verifiable evidence of applicant's birth date;~~

~~(c) an original state board transcript or verification from each state in which the applicant holds or has held a license; and~~

~~(d) proof of high school graduation or equivalency; or~~

~~(e) in lieu of a high school diploma or equivalency, applicants may petition the board for an exception by submitting the following information:~~

~~(i) certified copies of applicant's high school transcripts; or~~

~~(ii) lists of courses completed including:~~

~~(A) adult education courses;~~

~~(B) postsecondary education courses; and~~

~~(C) other experiences providing evidence of equivalency to a high school diploma.~~

~~(3) To qualify for licensure by endorsement, an out-of-state cosmetologist shall submit an application including the following documentation:~~

~~(a) proof of completion of 2000 hours of training in an approved school of cosmetology;~~

~~(i) For the purposes of 37-1-304, MCA, "substantially equivalent" for cosmetologists means 2000 hours of formal training and successful completion of a board-approved examination by a passing score set forth in rule. Applicants who have not completed 2000 hours of formal training shall be required to pass a board-approved examination as specified in rule. Work experience obtained in the profession will not be considered as part of a cosmetologist applicant's qualifications or credit for hours.~~

~~(ii) The applicant shall be credited for the hours of formal training currently required in that state or the hours shown in the transcript or verification.~~

~~(b) copy of a birth certificate or other verifiable evidence of applicant's birth date;~~

~~(c) a certified state board transcript or verification from each state in which the applicant holds or has held a license; and~~

~~(d) proof of high school graduation or equivalency; or~~

~~(e) in lieu of a high school diploma or equivalency, applicants may petition the board for an exception by submitting the following information:~~

~~(i) certified copies of applicant's high school transcripts; or~~

~~(ii) lists of courses completed including:~~

~~(A) adult education courses;~~

~~(B) postsecondary education courses; and~~

~~(C) other experiences providing evidence of equivalency to a high school diploma.~~

~~(4) To qualify for licensure by endorsement, an out-of-state electrologist shall submit an application including the following documentation:~~

~~(a) proof of completion of 600 hours of training in an approved school of electrology;~~

~~(i) For the purposes of 37-1-304, MCA, "substantially equivalent" for electrologists means 600 hours of formal training and successful completion of a board-approved examination with a passing score set forth in rule. Applicants who have not completed 600 hours of formal training shall be required to pass a board-approved examination as specified in rule. Work experience obtained in the profession will not be considered as part of an electrologist applicant's qualifications or credit for hours.~~

~~(ii) The applicant will be credited for the hours of formal training currently required in that state or the hours shown in the transcript or verification.~~

~~(b) copy of a birth certificate or other verifiable evidence of applicant's birth date;~~

~~(c) an original state board transcript or verification from each state in which the applicant holds or has held a license; and~~

~~(d) proof of high school graduation or equivalency; or~~

~~(e) in lieu of a high school diploma or equivalency, applicants may petition the board for an exception by submitting the following information:~~

~~(i) certified copies of applicant's high school transcripts; or~~

~~(ii) lists of courses completed including:~~

~~(A) adult education courses;~~

~~(B) postsecondary education courses; and~~

~~(C) other experiences providing evidence of equivalency to a high school diploma.~~

~~(5) To qualify for licensure by endorsement, an out-of-state esthetician shall submit an application including the following documentation:~~

~~(a) proof of completion of 650 hours of training in an approved school of esthetics or esthetics course;~~

~~(i) For the purposes of 37-1-304, MCA, "substantially equivalent" for estheticians means 650 hours of formal training and successful completion of a board approved examination with a passing score set forth in rule. Applicants who have not completed 650 hours of formal training shall be required to pass a board approved examination as specified in rule. Work experience obtained in the profession will not be considered as part of an esthetician applicant's qualifications or credit for hours.~~

~~(ii) The applicant will be credited for the hours of formal training currently required in that state or the hours shown in the transcript or verification.~~

~~(b) copy of a birth certificate or other verifiable evidence of applicant's birth date;~~

~~(c) an original state board transcript or verification from each state in which the applicant holds or has held a license; and~~

~~(d) proof of high school graduation or equivalency; or~~

~~(e) in lieu of a high school diploma or equivalency, applicants may petition the board for an exception by submitting the following information:~~

~~(i) certified copies of applicant's high school transcripts; or~~

~~(ii) lists of courses completed including:~~

~~(A) adult education courses;~~

~~(B) postsecondary education courses; and~~

~~(C) other experiences providing evidence of equivalency to a high school diploma.~~

~~(6) To qualify for licensure by endorsement, an out-of-state manicurist shall submit an application including the following documentation:~~

~~(a) proof of completion of 350 hours of training in an approved school of manicuring or manicuring course;~~

~~(i) For the purposes of 37-1-304, MCA, "substantially equivalent" for manicurists means 350 hours of formal training and successful completion of a board approved examination with a passing score set forth in rule. Applicants who do not possess 350 hours of formal training shall successfully pass a board approved examination as specified in rule. Work experience obtained in the profession will not be considered as part of a manicurist applicant's qualifications or credit for hours.~~

~~(ii) The applicant will be credited for the hours of formal training currently required in that state or the hours shown in the transcript or verification.~~

~~(b) copy of a birth certificate or other verifiable evidence of applicant's birth date;~~

~~(c) an original state board transcript or verification from each state in which the applicant holds or has held a license; and~~

~~(d) proof of high school graduation or equivalency; or~~

~~(e) in lieu of a high school diploma or equivalency, applicants may petition the board for an exception by submitting the following information:~~

~~(i) certified copies of applicant's high school transcripts; or~~

~~(ii) lists of courses completed including:~~

~~(A) adult education courses;~~

~~(B) postsecondary education courses; and~~

~~(C) other experiences providing evidence of equivalency to a high school diploma.~~

~~(7) Applicants from foreign countries shall be held to the same licensure requirements as out-of-state applicants. Applicants shall first receive board approval for the foreign hours of training in accordance with the established curriculum set forth in rule.~~

(1) Applicants for licensure must submit a completed application provided by the department, electronically or by paper, including appropriate fees and required documentation.

(2) Applicants may qualify for licensure by one of the following licensure methods: examination or credentialing. To qualify for licensure by credentialing, an applicant must satisfy the requirements of (3) and (4).

(3) To qualify for licensure by credentialing the applicant must submit the following documentation:

(a) For a barber license:

(i) proof of age;

(ii) proof of current unencumbered barber license in another state;

(iii) license verification from each state or jurisdiction the applicant has been licensed in, whether the license is current or not; and

(iv) proof of passage of a board-approved examination in barbering with appropriate passing scores.

(b) For a cosmetology license:

(i) proof of age;

(ii) proof of current unencumbered cosmetology license in another state;

(iii) license verification from each state or jurisdiction the applicant has been licensed in, whether the license is current or not; and

(iv) proof of passage of a board-approved examination in cosmetology with appropriate passing scores.

(c) For an electrology license:

(i) proof of age;

(ii) proof of current unencumbered electrology license in another state;

(iii) license verification from each state or jurisdiction the applicant has been licensed in, whether the license is current or not; and

(iv) proof of passage of a board-approved examination in electrology with appropriate passing scores.

(d) For a manicurist license:

(i) proof of age;

(ii) proof of current unencumbered manicurist license in another state;

(iii) license verification from each state or jurisdiction the applicant has been licensed in, whether the license is current or not; and

(iv) proof of passage of a board-approved examination in manicuring with appropriate passing scores.

(e) For an esthetician license:

(i) proof of age;

(ii) proof of current unencumbered esthetician license in another state;

(iii) license verification from each state or jurisdiction the applicant has been licensed in, whether the license is current or not; and

(iv) proof of passage of a board-approved examination in esthetics with appropriate passing scores.

(4) An out-of-state applicant applying for a license by credentialing must also meet the following requirements:

(a) To qualify for a barber license the applicant must possess a license type in good standing that includes scope of training and practice equal to [New Rule III(2)] and either have completed a course of training of at least 1,100 hours in a school or attest to 1,250 hours of work experience as a licensed barber.

(b) To qualify for a cosmetologist license the applicant must possess either:

(i) a license type in good standing that includes scope of training and practice equal to the cosmetologist requirements in [New Rule III(3)] and either have completed a course of training of at least 1,500 hours in a school or attest to 1,500 hours of work experience as a licensed cosmetologist; or

(ii) a combination of licensure in good standing that includes scopes of training and practice equal to:

(A) [New Rule III(3)(d) through (g)] and have completed a course of training equal to or exceeding 900 hours in a school;

(B) [New Rule III(4)] and have completed a course of training equal to or exceeding 200 hours in a school; and

(C) [New Rule III(5)] and have completed a course of training equal to or exceeding 400 hours in a school.

(c) To qualify for an electrology license the applicant must possess a license type in good standing that includes the scope of training and practice equal to [New Rule III(4)] and either have completed at least 450 hours of electrology training in a school or attest to at least 750 hours of work experience as a licensed electrologist.

(d) To qualify for a manicurist 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 200 hours of electrology training in a school or attest to at least 750 hours of work experience as a licensed manicurist.

(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 training in a school or attest to at least 750 hours of work experience as a licensed esthetician.

(f) For any other combinations or types of licensure such as hairstyling, braiding, or make-up artists, applying for licensure will be individually assessed by review of the respective licensing requirements, course curricula and transcripts and may require further review by the board.

(5) Applicants with foreign training will be considered nonroutine for the purposes of evaluating the education and qualifications and must:

(a) submit copies of their training and education curricula to the board;

(b) provide acceptable official translations of all supporting documents required for licensing and evaluation by the board. Acceptable translations are prepared by a reliable source such as a third party company or certified translator authorized to provide official translations to English, but translations prepared by the applicant or the applicant's relatives, coworkers, or friends are not acceptable. Documentation and contact information of the translator must be attached to the translation for the board to review and contact if necessary; and

(c) take and pass the board-approved examination. Proof of passage of the examination must be received from the source or another state licensing jurisdiction through a license verification.

(6) Applicants who obtained their training from Canada are not considered foreign for purposes of this rule.

(7) Applicants by examination who have never been licensed and who completed their professional education out of state must meet the same requirements as an applicant from Montana.

(8) Individuals who have been previously licensed in Montana under this chapter and whose licenses have terminated must reapply.

(9) Applications will automatically time out after one year following the application open date. Applicants with applications that have timed out must reapply and pay all appropriate fees.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-1-304, 37-31-303, 37-31-304, 37-31-305, 37-31-308, MCA

REASON: See REASON for ARM 24.121.601.

24.121.605 APPLICATION FOR POSTSECONDARY SCHOOL LICENSURE

(1) through (9) remain the same.

(10) Each school shall be located in a structure that meets all applicable local and state building codes requirements.

(11) Applicants shall furnish the board with a blueprint or detailed scale drawing of the floor plan as part of the application for licensure.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-31-101, 37-31-302, 37-31-311, 37-31-312, MCA

REASON: In conjunction with proposed amendments to ARM 24.121.803, the board is adding (10) and (11) to uniformly address building requirements for all schools by referring to building code standards. For example, current rules contain ventilation standards that the board is unable to measure, and that are essentially redundant with existing building code requirements. The ventilation requirement is being removed from ARM 24.121.803 and instead licensees must meet all applicable building code standards per (10).

24.121.611 EXAMINATION REQUIREMENTS AND PROCESS (1) remains the same.

(a) Applicants must submit the testing eligibility letter to the examination vendor in order to schedule their examination.

(b) Applicants must provide a photo ID at the examination location to be admitted to the examination.

(2) through (4) remain the same.

(5) Applicants must have an examination eligibility letter in order to schedule and take both the written and practical board-approved exam.

(a) Montana-enrolled students or graduates of a Montana-licensed school under this chapter will receive their testing eligibility letter from the school. Students are eligible to take the written and practical portion of the board-approved exam following 90 percent completion of their educational requirements have been met.

(b) Applicants licensed by credentialing who are required to take the board-approved exam will receive their testing eligibility letter from the board office, once the proof of graduation or license verification in another state is received.

(6) The testing eligibility letter is valid for 180 days from the date of the letter.

(7) Once the applicant has taken and passed the examination the applicant shall notify the board office. The board office will verify the examination scores directly with the vendor.

(8) Instructor applicants applying for a license under 37-31-305(2)(d)(ii), MCA, are required to provide an affidavit of three years of experience in a particular area of practice to the board office in order to receive a testing eligibility letter.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-31-304, 37-31-305, 37-31-308, MCA

REASON: The board is amending this rule to clearly delineate the testing process in response to internal application workflow changes for the board and the test administrator, and to address questions from schools, students, and applicants.

24.121.803 SCHOOL REQUIREMENTS (1) through (3) remain the same.

~~(4) Schools shall have a mechanical ventilation or portable air purifier system that provides the total cubic square feet of the school with at least four air exchanges per hour. The ventilation system must operate continuously during business hours of the school. Doors and windows are not acceptable for the ventilation requirement.~~

(5) through (11)(a) remain the same, but are renumbered (4) through (10)(a).

(b) one protective covering per student;

(b) through (j) remain the same, but are renumbered (c) through (k).

(12) remains the same, but is renumbered (11).

(a) remains the same.

(b) one protective covering per student;

(b) through (j) remain the same, but are renumbered (c) through (k).

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-31-311, MCA

REASON: The board is amending this rule to be consistent with amendments to

ARM 24.121.605 regarding minimum building standards. The board is also correcting an apparent oversight by adding the requirement for a protective covering per student in manicuring and esthetic schools. Coverings are currently required in other board-licensed schools, and the board intended the requirement apply to all licensed schools.

24.121.805 SCHOOL OPERATING STANDARDS (1) through (6)(a) remain the same.

(b) copy of a birth certificate or other verifiable evidence of applicant's birth date;

(c) copy of high school diploma or its recognized equivalent, or a signed statement that the person was admitted or enrolled on the basis that the student was beyond the compulsory age of education as provided in 20-5-102, MCA;

(b) through (p) remain the same, but are renumbered (d) through (r).

(7) remains the same.

(8) Appropriately licensed instructors shall directly supervise students at all times on the school premises in the classroom and on the clinic floor. One instructor shall supervise no more than 25 cosmetology, barbering, esthetics, or manicuring students, and no more than ten electrology students, at any time. No instructor may supervise classroom and clinic floor activities simultaneously.

(9) through (12)(d) remain the same.

(e) manicuring students - ~~80~~ 110 hours.

(13) and (14) remain the same.

(15) Upon completion by students of at least 90 percent of the required course of study, and prior to graduating and receiving a diploma, the student may take the board-approved ~~final practical examination~~ exam. ~~The final practical examination must include all components for evaluation as provided in ARM 24.121.807 for each course of study.~~

(16) A person may submit a license application when the person is no more than 90 days from completing the requisite course of study given the person's current and expected rate of progression.

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-31-311, MCA

REASON: In May 2014, the board adopted ARM 24.121.806 as part of a rules package that was necessary to align board rules with the U.S. Department of Education standards so that licensed schools would be considered "postsecondary" schools that qualify for federal student financial aid. Consistent with ARM 24.121.806, the board is amending (6) to establish a duty to maintain relevant records that the board can audit to ensure continued compliance with U.S. Department of Education requirements.

The question of whether instructors may teach class and supervise clinical work simultaneously was recently presented to the board in relation to a school application. Following discussion and reference to current rules, the board concluded that it is not permissible for an instructor to supervise clinical work and teach a classroom simultaneously. However, because the question caused some

debate and discussion on the topic, the board determined it is reasonably necessary to expressly state this prohibition by amending (8).

In response to recent requests by licensed schools, the board is amending (12)(e) to increase the basic training of manicurists from 80 to 110 hours in conjunction with the amendment to ARM 24.121.807(6), to change the total hour requirements for the manicuring course from 350 hours to 400 hours. The schools are, in turn, responding to graduated manicurists who are concerned that they were not as prepared to enter the work force as they would like to have been.

Additionally, the board has received requests to clarify and slightly modify the application process. The amendments regarding the application process are consistent with those requests and with internal application workflow changes of the board and the test administrator.

24.121.807 SCHOOL CURRICULA (1) through (2)(a)(i) remain the same.

(ii) shampoo, scalp treatment, and hair styling (thermal and air styling, ~~finger waving~~, hair pieces to include weaves and extensions), 230 hours;

(iii) through (3)(a)(i) remain the same.

(A) manicures (including ~~water, oil,~~ hand and arm massage, ~~paraffin wax treatments,~~ and polish);

(B) pedicures (including foot, ankle, and lower leg massage, ~~paraffin wax treatments,~~ and polish);

(C) application of monomer liquid and polymer powder nail enhancements, artificial nails (including sculptured, nail tips, nail wraps, UV gels, and nail art fills, repairs, tip overlays, fiberglass, gel, and acrylic); and

(D) and (3)(a)(ii) remain the same.

(A) skin care (including facials, cosmetics, makeup, massage, essential oils, the application and maintenance of artificial eyelashes and extensions, tinting of the eyelashes and eyebrows, and the chemical curling of the eye lashes;

(B) through (5)(a)(i) remain the same.

(ii) massage, skin care, makeup, (including the use of vaporizer, high frequency, massage brush, vacuum spray, galvanic unit, and lamps), cosmetics, facials, essential oils, the application and maintenance of artificial eyelashes and extensions, tinting of the eyelashes and eyebrows, the chemical curling of the eye lashes, and skin exfoliation (including manual, chemical, and mechanical exfoliation), 300 hours;

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

(6) The required curriculum for manicuring students includes ~~350~~ 400 hours of training, of which at least ~~35~~ 40 hours is in theory, distributed as follows:

(a) ~~265~~ 300 hours of training, distributed as follows:

(i) remains the same.

(ii) bacteriology, sanitation, sterilization, safety, anatomy, physiology, diseases and disorders of skin and nails, manicure basic chemistry, and nail care nail product chemistry, and electricity, 55 hours;

(iii) manicures (including ~~water, oil,~~ hand, and arm massage), pedicures (including foot, ankle, and lower leg massage), polish applications, ~~paraffin wax treatments,~~ and the proper use of manicuring implements ~~including the electric nail file,~~ a minimum of 35 hours; and

(iv) use of the electric nail file, 10 hours; and
~~(iv)~~ (v) application of artificial nails, sculptured nails monomer liquid and polymer powder nail enhancements, nail tips, nail wraps, tip overlays, fills, repairs (including fiberglass, gel, and acrylic), UV gels, and nail art, a minimum of 145 140 hours.

(b) ~~85~~ 100 hours of instruction shall be at the discretion of the school provided that the hours are within the applicable curriculum.

(7) remains the same.

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-31-101, 37-31-304, 37-31-305, 37-31-311, MCA

REASON: The board determined it is reasonably necessary to amend this rule in response to questions and concerns from schools, board staff, and licensees. These amendments not only modify curricula requirements in response to the expressed desire of schools, but also modify and help clarify the required coursework in terms more consistent with the practices.

In response to recent requests by licensed schools, the board is amending (6) to increase the total hour requirements for the manicuring course from 350 hours to 400 hours. This amendment and the resultant changes at the school level are in response to concerns of graduated manicurists that they were not as prepared to enter the work force as they would like to have been.

24.121.809 STUDENT WITHDRAWAL, TRANSFER, OR GRADUATING

(1) remains the same.

(2) When transferring between licensed schools, the transferring student shall provide the school with a statement of good standing and official transcript from the previous school. The new school shall, at its discretion, may grant full credit for all hours completed and grades received by the transferring student within three years of the student's original enrollment date.

(3) and (4) remain the same.

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-31-311, MCA

REASON: The board is amending this rule to remove the rigid requirement on schools to grant credit to transferring students because it is not always possible to segment coursework in a way that caters to every individual student. While credit should be granted where possible, the board recognizes that a student may have to repeat some hours of training to fit within the structure and curriculum of the new school. The board believes this is a matter for the schools to determine, and this amendment will allow a reasonable degree of discretion.

24.121.1103 INSTRUCTOR REQUIREMENTS - TEACHER-TRAINING PROGRAMS (1) through (4) remain the same.

~~(5) All student or cadet instructors shall register with the board.~~

(6) remains the same, but is renumbered (5).

~~(7) (6)~~ Upon completion by the student of at least 90 percent of the ~~teacher-training required~~ course of study, and prior to ~~graduation~~ graduating and issuance of ~~receiving~~ a diploma, the student may take the board-approved ~~practical examination exam~~. The final practical examination must include all components for evaluation as provided in ARM 24.121.1105.

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-31-305, 37-31-311, MCA

REASON: The board is deleting (5) to eliminate registration of student or cadet instructors because the board determined registration is the responsibility of the schools.

24.121.1105 TEACHER-TRAINING CURRICULUM AND TEACHING METHODOLOGY COURSEWORK (1) remains the same.

(2) The board-approved coursework related to teaching methodology shall consist of 135 hours and include the following:

(a) teaching methods 6 credits or 90 hours:

(i) task analysis;

(ii) developing instructional objectives;

(iii) visual aids and their construction;

(iv) motivational tools;

(v) preparation of instructive materials;

(vi) lesson planning;

(vii) fundamentals of speech and public speaking;

(viii) methods of test construction;

(ix) methods of evaluation or grading; and

(x) curriculum planning and development.

(b) educational psychology three credits or 45 hours;

(c) coursework may be completed through:

(i) classes acceptable to a state's board of regents or equivalent authority and approved through that state's university system;

(ii) self-study to be observed and documented by the administrator of the school employing the instructor; or

(iii) class studies pre-approved by the board.

(d) prior to renewal of the instructor license, documentation of completed coursework must be submitted to the board for board approval.

(3) Coursework completed prior to instructor licensure may be used to satisfy the requirements of this subsection.

AUTH: 37-1-131, 37-31-203, 37-31-311, MCA

IMP: 37-31-305, 37-31-311, MCA

REASON: The 2013 Montana Legislature enacted Chapter 102, Laws of 2013 (Senate Bill 343), an act that amended 37-31-305, MCA, by providing three years of experience as an alternate instructor qualification. Under the alternative qualifications, a license to instruct may be issued to an individual who has at least

three years of practical experience, subject to the requirement that the individual complete board-approved coursework related to teaching methodology within two years of licensure. This board is amending this rule to further implement the legislation and clearly delineate what constitutes board-approved coursework related to teaching methodology.

24.121.1301 SALONS/BOOTH RENTAL (1) ~~Mobile homes, moveable trailers, and structures on skids are not considered fixed places of business and will not be licensed as a salon, shop, or school. Each salon and shop shall be located in a structure that meets all applicable local and state building codes requirements.~~

(2) through (7) remain the same.

(8) A new salon or shop may be granted a temporary operating permit pending an initial inspection. No prior notice of the inspection is required. A temporary operating permit shall terminate and a license shall not be granted without board review, unless the salon or shop provides the board with a response within 30 days of the date of the inspection that indicates all the inspection violations have been corrected to the inspector's satisfaction. If a temporary permit terminates, the salon or shop must cease operation until the application is granted by the board and a license issued. A subsequent temporary operating permit is not available, unless the application times out pursuant to ARM 24.121.403 and a new application is filed.

(8) remains the same, but is renumbered (9).

(10) A licensee may not renew a booth renter license, unless, at the time of renewal, the licensee has at least one currently active license to practice.

(9) remains the same, but is renumbered (11).

AUTH: 37-1-131, 37-31-203, 37-31-204, MCA

IMP: 37-31-204, 37-31-302, 37-31-309, 37-31-312, MCA

REASON: Consistent with other amendments within this notice, the board is amending (1) to remove the prohibition against mobile homes and similar structures and instead require that licensed salons and shops meet applicable building codes requirements.

In response to licensing staff questions, the board is adding (8) to clearly set forth the process for temporary practice permits.

The board is revising its policies regarding board-generated complaints and the board's definition of "nonroutine" license applications. In accordance with those revisions, booth renter licenses will be issued to licensees with an active license to practice, without requiring the extensive application materials for a license to practice. Consequently, all complaints will be directly associated with the license to practice. Considering those changes in policy, the board determined it is reasonably necessary to require an active license to practice as a strict condition to renewing a booth renter license and is adding (10) accordingly.

24.121.1509 IMPLEMENTS, INSTRUMENTS, SUPPLIES, AND EQUIPMENT (1) through (5)(a)(ii) remain the same.

(iii) used only in accordance with specific manufacturer directions ~~with the exception of plastic tips, which are single use items that require disposal after a one time use.~~

~~(6) Aluminum oxide crystals or manufacturer approved corundum used in microdermabrasion machines are:~~

~~(a) for single use purposes and shall:~~

~~(i) be discarded after each use in accordance with federal, state, and local disposal regulations; and~~

~~(ii) have a granule size no larger than 120 grit or the equivalent of 100 to 102 microns.~~

~~(b) The board shall approve the use of abrasives, other than aluminum oxide crystals or approved corundum, prior to the use of such abrasives by licensees.~~

~~(7) Only single use plastic tips are allowed to be used in microdermabrasion machines and must be disposed of after each client.~~

~~(8) Microdermabrasion machines must be maintained and filters changed in accordance with OSHA and manufacturer requirements.~~

(b) Solid or liquid abrasives used in microdermabrasion machines are for single-use purpose only and shall be discarded after each use in accordance with federal, state, and local disposal regulations.

(c) The use of abrasive tips are allowed if used in accordance with specific manufacturer directions.

(d) Single-use plastic tips are allowed to be used in microdermabrasion machines and must be disposed of after each use.

(e) Microdermabrasion machines that have tips that are multiuse, according to specific manufacturer directions, must be sterilized by use of an autoclave.

(f) Microdermabrasion machines must be maintained and filters changed in accordance with OSHA and manufacturer requirements.

(9) through (12) remain the same, but are renumbered (6) through (9).

AUTH: 37-1-131, 37-31-203, 37-31-204, MCA

IMP: 37-1-131, 37-31-203, 37-31-204, 37-31-312, MCA

REASON: The board determined the proposed amendments to this rule regarding microdermabrasion are reasonably necessary to address the evolving technology of microdermabrasion machines that have been introduced to the market. The board notes that different machines are now acceptable for esthetic use, and is amending this rule to clearly set forth the requirements for the use and disinfection of those machines.

24.121.1517 SALON PREPARATION STORAGE AND HANDLING

(1) through (9) remain the same.

(10) If the board inspector obtains evidence that a product or item prohibited by this rule is being used in a salon, shop, or school, the inspector may seize the product or item and remove it from the facility immediately. If a prohibited product or item is seized by an inspector, the licensee will be responsible for the costs of disposing of the product or item. The licensee will be mailed a notice that sets forth the disposal costs incurred by the board in relation to the product or item, and the

licensee shall pay such costs within 30 days of the date the notice is mailed to the licensee.

AUTH: 37-1-131, 37-31-203, 37-31-204, MCA

IMP: 37-31-204, 37-31-312, MCA

REASON: In carrying out its duties to protect the public, the board has seized a number of prohibited items. In some cases, the items are chemicals, biohazardous materials, or may not be readily identified because labelling has been removed or concealed. Because the disposal of these items is costly to the board, the board concluded that those costs ought to be borne by the licensees who, in addition to costing the board money in terms of enforcement, pose a health and safety risk to the public by using or storing such prohibited items in the licensees' premises.

24.121.2101 CONTINUING EDUCATION - INSTRUCTORS/INACTIVE INSTRUCTORS (1) Active instructors shall complete 30 hours of board-approved continuing education (CE) per renewal period to maintain active status licensure of which eight hours must be in teaching methodology pursuant to ARM 24.121.1105.

~~(2) Courses taught via distance education must first be approved by the board.~~

~~(3) (2) Continuing education courses must be germane to the practice or business of barbering, cosmetology, electrology, esthetics, manicuring, or instructing and teacher training.~~

~~(4) (3) Requests for approval of CE courses must be made on forms approved by the board department or its designee.~~

~~(5) A maximum of ten hours per renewal period may be obtained at trade shows where products are being promoted.~~

~~(6) All approved education must be open and available to all instructor licensees, unless it violates a franchise agreement.~~

~~(7) through (10) remain the same, but are renumbered (4) through (7).~~

~~(11) (8) The course provider must supply each licensee with a course completion certificate and course evaluation form and must verify attendance of each licensee.~~

~~(12) No licensee shall repeat a course for credit in any three-year period.~~

~~(13) (9) Course approval will be for the current calendar year. All courses will expire March 1 of each year. Course approval will be for three years. All courses will expire March 1 of the third year.~~

~~(14) remains the same, but is renumbered (10).~~

~~(15) (11) An instructor may receive credit for attending board-sponsored events meetings of the board.~~

~~(16) A licensee may place their instructor license on inactive status by submitting a written request that the license be placed inactive.~~

~~(17) An inactive licensee has the sole responsibility to keep the board informed of any change of the licensee's mailing address during the period of time the instructor license remains on inactive status.~~

~~(18) In order to avoid lapse, expiration, or termination of the instructor license, an inactive licensee must renew the inactive license each renewal period.~~

~~(19) An inactive licensee does not need to report continuing education until converting the license to active status.~~

~~(20) To convert an inactive instructor license to active status, licensees shall submit evidence of completion of 15 hours of approved continuing education obtained within the 12-month period prior to converting the license.~~

AUTH: 37-1-131, 37-1-319, 37-31-203, MCA

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

REASON: The board determined it is reasonably necessary to make broad changes to the continuing education requirements for instructors. As part of those changes, the board is removing all references to inactive instructor requirements from this rule and shifting those provisions to New Rule V.

24.121.2301 UNPROFESSIONAL CONDUCT (1) through (1)(x) remain the same.

(y) failing to timely and fully pay the costs of disposal set forth in a notice provided to the licensee pursuant to ARM 24.121.1517;

(y) and (z) remain the same, but are renumbered (z) and (aa).

(2) remains the same.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-31-203, MCA

IMP: 37-1-136, 37-1-137, 37-1-141, 37-1-316, 37-31-301, 37-31-331, MCA

REASON: The board determined it is reasonably necessary to amend this rule by adding to the actions considered by the board as unprofessional conduct. To better protect public health, safety, and welfare, the board is amending this rule to emphasize and provide a means of enforcing the proposed amendment to ARM 24.121.1517, which will require licensees to reimburse the board for costs associated with disposing of prohibited items.

5. The proposed new rules provide as follows:

NEW RULE I NONROUTINE APPLICATIONS (1) The board shall review an application containing any of the following criteria:

(a) criminal convictions and charges:

(i) a felony conviction of any nature, or a misdemeanor conviction relating to sex or violence, if the sentence imposed for any such conviction has not been fully discharged or if the conviction was entered within the past ten years;

(ii) any conviction involving use or sale of drugs, fraud, deceit, or theft, pursuant to 37-1-316(1), MCA, unless the conviction occurred more than five years before application and all court-ordered conditions have been satisfied, discharged, or dismissed;

(iii) three or more misdemeanor convictions that have occurred within five years of application, which include, but are not limited to, the following traffic-related crimes:

(A) reckless driving;

- (B) DUI; and
- (C) hit-and-run; or
- (iv) a pending criminal charge if, as a conviction, it would cause the application to be "nonroutine" under any part of (a). A criminal charge resulting in a deferred sentence that has not been discharged as of the date of application is considered a conviction for purposes of determining whether the application is nonroutine. Misdemeanor traffic convictions not involving alcohol or drugs will not cause an application to be considered nonroutine.
- (b) other unprofessional conduct:
 - (i) an investigation, complaint, consent agreement, or disciplinary action involving the applicant that either:
 - (A) resulted in a license or license application that was revoked, suspended, denied, withdrawn, or surrendered; or that was placed on probation or subjected to any condition or restriction for the period of two or more years; or
 - (B) resulted in a license or license application that is currently encumbered by a disciplinary sanction, meaning conditions imposed on the license have not been satisfied or are ongoing if the action was based upon the applicant's underlying conduct and not based on another state's or jurisdiction's disciplinary action; or
 - (ii) the applicant was diagnosed with an addiction or participated in a chemical dependency or other addiction treatment program within three years of submitting application. However, if treatment has been successfully completed and any recommended follow-up is being complied with, the department may consider the application routine;
 - (iii) the applicant answered "yes" on the application regarding a diagnosis for a physical condition or mental health disorder involving a potential health risk to the public;
 - (iv) the applicant was accused of unlicensed practice, unless the accusation has been resolved in favor of the applicant; or
 - (v) for a salon operating on a temporary practice permit, an inspection report reflecting three or more sanitation violations, prohibited items, use of machines outside of scope, permitting unlicensed practice, or other grounds constituting unprofessional conduct.
- (c) education:
 - (i) the applicant's barbering, cosmetology, electrology, esthetics, or manicuring education was obtained in a foreign jurisdiction other than Canada;
- (d) application discrepancies:
 - (i) failure to accurately and completely respond to a question on the application form. The department may treat an application as routine under this subsection if the department receives an adequate explanation for such a failure;
 - (ii) the department may, but is not required to, submit an otherwise "routine" application for board review if:
 - (A) questions arise whether the applicant meets all requirements for licensure, including, but not limited to, the demonstration of good moral character; or
 - (B) inconsistencies, irregularities, or other matters of concern exist in the application or related documentation;
- (e) with the exception of instructor and school licenses, an application will be deemed "routine" if it is "nonroutine" under this policy, based on information

previously considered by the board, relative to a prior application that resulted in the issuance of an unencumbered license or if it resulted in a complaint that was resolved without discipline; or

(f) a booth rental application is always routine, so long as the applicant holds a current practice license and is not restricted from working as a booth renter.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-1-101, 37-1-131, 37-1-307, MCA

REASON: Pursuant to 37-1-101(1), MCA, the department shall process and issue licenses to all applicants who submit complete and routine applications. The board, however, must review all completed nonroutine applications prior to licensure. The board determined it is reasonably necessary to revise and clearly delineate the definition of nonroutine application to facilitate the licensure process.

NEW RULE II GRANTING EXCEPTION TO HIGH SCHOOL DIPLOMA OR EQUIVALENCY (1) Exceptions to providing a high school diploma or equivalency recognized by the State Superintendent of Public Instruction at the Office of Public Instruction (OPI) pursuant to 37-31-304, MCA, may be made upon the following documentation:

- (a) high school transcripts with graduation date;
- (b) college, university, or vocational-technical school diploma or transcripts with graduation date;
- (c) diploma from an Associates, Bachelors, or higher degree;
- (d) diploma or transcripts from a home school program;
- (e) proof of service in the armed forces, such as a copy of DD214, indicating high school equivalency;
- (f) original verification/letter from high school or alterative school sent directly from the school to the board office indicating completion through grade 12; or
- (g) by submitting a request in writing and any experience or documentation to support the applicant that meets the intent of the requirement such as, but not limited to:
 - (i) adult education courses completed;
 - (ii) college or university courses completed;
 - (iii) work experience; and
 - (iv) previous licensure in this or other jurisdictions.

AUTH: 37-1-131, 37-31-203, 37-31-304, MCA

IMP: 37-1-131, 37-31-203, 37-31-304, MCA

REASON: Section 37-31-304, MCA, requires the board to provide, by rule, "procedures for granting an exception" to the "high school diploma or its equivalent" requirement for licensure.

The board is amending ARM 24.121.601 and 24.121.603 and adopting New Rules II, III, and IV to recognize various experience and training that will be acceptable for purposes of qualifying for a Montana license. In conjunction with those amendments and adoptions, the board is, similarly, modifying its present

procedures for granting an exception to the "high school diploma or its equivalent" requirement so that the board has greater flexibility and board staff has more specific direction to allow exceptions without bringing each request to the board.

NEW RULE III LICENSURE EQUIVALENCY FOR PROFESSIONAL EDUCATION (1) The board recognizes the fragmentation of license types among states making it difficult to determine license type and scope of practice from state to state. The following is a breakdown of scopes of practice and is to be used to assist out-of-state applicants and the board in determining appropriate licensure, if any, regardless of the name or title of the out-of-state license that is equivalent to Montana licensure.

(2) The scope of training required for the practice of barbering is as follows:

- (a) haircutting with proper uses of tools (e.g., shears, razor, clippers, and thinning shears);
- (b) shampooing and scalp treatments;
- (c) hairstyling, including weaves, braiding, and extensions;
- (d) wet setting, blow drying, curling, and flat ironing; and the arranging of dry hair;
- (e) hair coloring, hair lightening, waving, and relaxing;
- (f) facial shaving with straight razor; and
- (g) skin care.

(3) The scope of training required for the practice of cosmetology is as follows:

- (a) manicuring and pedicuring, including massage and polishing, nail art, and use of an electric nail file;
- (b) application and removal of artificial nails, gels, tips, and wraps;
- (c) skin care, skin exfoliation, facials, makeup application, epilation, electricity and light therapies, and application of artificial lashes;
- (d) hair coloring, hair lightening, waving, and relaxing;
- (e) shampoo and scalp treatments;
- (f) hairstyling, including weaves, braiding, and extensions;
- (g) wet setting, blow drying, curling and flat ironing, and the arranging of dry hair; and
- (h) haircutting with proper uses of tools (e.g., shears, razor, clippers, and thinning shears).

(4) The scope of training required for the practice of electrology is as follows:

- (a) electrolysis;
- (b) thermolysis;
- (c) the blend;
- (d) electricity, chemistry, and light therapy; and
- (e) epilation.

(5) The scope of training required for the practice of manicuring is as follows:

- (a) manicuring;
- (b) pedicuring; and
- (c) applying and removing artificial nails, gels, tips, and wraps and use of an electric nail file.

(6) The scope of training required for the practice of esthetics is as follows:

- (a) skin care;
- (b) skin exfoliation, facials, and makeup application;
- (c) epilation;
- (d) electricity and light therapies; and
- (e) application of artificial lashes.

AUTH: 37-1-131, 37-31-203, 37-31-304, MCA

IMP: 37-1-131, 37-31-203, 37-31-304, MCA

REASON: The board determined that it is reasonably necessary to adopt New Rule III to better define qualifications to meet licensure by credentialing for out-of-state applicants. The amendments also address the various types of licensure from other states that may not be directly compatible with Montana licensure requirements, and how they will be addressed by staff and the board in relation to amendments being made to ARM 24.121.601 and 24.121.603.

NEW RULE IV CREDITED HOURS FOR MONTANA-LICENSED INDIVIDUALS IN A COSMETOLOGY OR BARBERING PROGRAM (1) A Montana licensee will receive the following credit of hours towards course requirements upon enrollment in a cosmetology course in Montana:

- (a) licensed barber 1500 hours;
- (b) licensed electrologist 80 hours;
- (c) licensed manicurist 200 hours; or
- (d) licensed esthetician 325 hours of credit will be given towards the cosmetology course.

(2) A Montana-licensed cosmetologist may apply for a barber license after completion of an additional 150 hours in barbering:

- (a) 125 hours in clipper cutting; and
- (b) 25 hours in straight razor shaving.

AUTH: 37-1-131, 37-31-203, 37-31-304, MCA

IMP: 37-1-131, 37-31-203, 37-31-304, MCA

REASON: There has been a great deal of discussion regarding the application of a licensee's prior training to additional licensure. To provide consistency among licensed schools in Montana, the board is adopting New Rule IV to clarify the requirement of licensed schools to credit individuals the appropriate number of hours if they enroll in a cosmetology or barbering program subsequent to becoming licensed in Montana in another area of practice. See also the REASON for ARM 24.121.601.

NEW RULE V INACTIVE INSTRUCTOR LICENSE (1) The status of inactive allows the licensee to maintain a license with the board; however, the licensee may not practice for more than ten days in any one calendar year as a substitute instructor with an inactive status. The board may request documentation if necessary.

(2) A licensee may place their instructor license on inactive status by submitting a request in writing or electronically to the department.

(3) A licensee with an inactive status must abide by all the statutes and rules pertaining to the license, including updating licensee information such as contact information and disciplinary actions.

(4) Inactive licensees are not subject to CE requirements while on inactive status.

(5) In order to avoid lapse, expiration, or termination of the instructor license, an inactive licensee must renew the inactive license each renewal period and pay the appropriate fee.

(6) To reactivate an inactive instructor license, the licensee must complete a reactivation request form, submit the fee, and provide proof of 30 hours of completed CE of which eight hours must be in teaching methodology, within the last 12 months prior to activating their instructor license.

AUTH: 37-1-131, 37-1-319, 37-31-203, MCA

IMP: 37-1-131, 37-1-319, 37-31-203, 37-31-305, MCA

REASON: The board determined it is reasonably necessary to redefine the process for inactive instructor licenses. For clarity, the board is eliminating the inactive instructor language from ARM 24.121.2101 and relocating the provisions as a separate rule in New Rule V.

NEW RULE VI LICENSEE AND APPLICANT CONTACT INFORMATION

(1) A licensee or applicant of the board is required to update their primary contact information with the department no later than 30 days following a change in contact information. This includes, but is not limited to, the following information:

- (a) name;
- (b) mailing address;
- (c) telephone number;
- (d) e-mail;
- (e) physical address for business licenses;
- (f) ownership for business licenses; and
- (g) hours of operation for business licenses.

(2) E-mail is the department's primary method of contact, unless otherwise requested by the licensee or applicant in writing.

AUTH: 37-1-131, 37-31-203, MCA

IMP: 37-1-131, 37-1-309, 37-31-203, MCA

REASON: The board is adopting New Rule VI to require that licensees provide and maintain specific contact and business information for the board. This new rule will address complaints from licensees regarding their lack of notice regarding license renewal and other board correspondence, and will help facilitate paperless correspondence and online renewal, thereby decreasing board costs. It will also specifically require ownership and hours of operation for licensed salons and shops, which will aid the board's efforts relative to inspections and compliance.

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 Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdcos@mt.gov, and must be received no later than 5:00 p.m., July 10, 2015.

7. An electronic copy of this notice of public hearing is available at www.cosmetology.mt.gov (department and board's web site). 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 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 that 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 Barbers and Cosmetologists, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdcos@mt.gov; or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. Senator Elsie Arntzen, the primary bill sponsor for Senate Bill 343 (2013), was contacted on August 18, 2014, by electronic mail.

10. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.121.301, 24.121.403, 24.121.601, 24.121.603, 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 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULES I through VI will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Barbers and Cosmetologists, 301 South Park Avenue, P.O.

Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdcos@mt.gov.

11. Tyler Moss, attorney, has been designated to preside over and conduct this hearing.

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 June 1, 2015