

BEFORE THE BOARD OF HEARING AID DISPENSERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF AMENDMENT,
ARM 24.150.301 definitions,)	AMENDMENT AND TRANSFER,
24.150.401 fees, 24.150.402 record)	AND REPEAL
retention, 24.150.501, 24.150.503,)	
and 24.150.505 regarding licensure,)	
24.150.2101 renewals, 24.150.2201,)	
24.150.2203, and 24.150.2204)	
regarding continuing education,)	
24.150.2301 unprofessional conduct,)	
the amendment and transfer of ARM)	
24.150.502 minimum testing, and)	
24.150.510 transactional document)	
requirements, and the repeal of ARM)	
24.150.403 notification, 24.150.504)	
licensees from other states, and)	
24.150.2202 exceptions)	

TO: All Concerned Persons

1. On February 11, 2010, the Board of Hearing Aid Dispensers (board) published MAR Notice No. 24-150-36 regarding the public hearing on the proposed amendment, amendment and transfer, and repeal of the above-stated rules, at page 284 of the 2010 Montana Administrative Register, issue no. 3.

2. On March 8, 2010, a public hearing was held on the proposed amendment, amendment and transfer, and repeal of the above-stated rules in Helena. Several comments were received by the March 16, 2010, deadline.

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

COMMENT 1: One commenter suggested changes to several of the rules proposed in the notice, as well as additional provisions to be inserted within those rules.

RESPONSE 1: While the input provided by this comment is welcomed and may be considered with regard to future rules projects, the commenter failed to explain why the suggested amendments are necessary or appropriate, or how the suggested amendments relate to the notice. In addition, this comment exceeds the scope of the notice to the extent that additional provisions were suggested that were not contained in the proposal notice. However, the commenter did suggest correcting out-of-date references to what is now known as the International Hearing Society. The board agrees with the suggestion and is amending ARM 24.150.301 and 24.150.2201 accordingly.

COMMENT 2: A few commenters expressed dissatisfaction with and opposition to the increased fees in ARM 24.150.401, stating that the increase is exorbitant and would be a burden on employees and employers. The commenters suggested that the board reduce expenses instead of raising fees, and recommended either combining the board with audiologists or attaching the board to another department for the purposes of consumer protection to reduce licensee cost, since many of the board's licensees are dually licensed as audiologists.

RESPONSE 2: The board is faced with a deficit that can only be addressed through a fee increase if the board is to continue functioning. The board has been reduced from seven members to five, meetings have been reduced from four meetings per year to three, with some meetings held telephonically, all in an effort to reduce costs. The board is a necessary entity for the protection of the public, while preserving the occupation from the oversight of other professions that might not give due consideration to those already practicing in the profession. The board also points out that because of the relatively small number of licensees that share the burden of fixed costs, the cost per licensee is unavoidably greater. The board is amending ARM 24.150.401 exactly as proposed.

COMMENT 3: One commenter objected to the amendments to ARM 24.150.501, stating that the amendments incorrectly refer to the passing score for each of the sections of the written examination, although the exam is not broken into parts that can be individually passed or failed. In addition, the commenter stated that the proposed amendments refer to the practical exam and eliminate the need for license applicants to pass each part of the practical exam. The commenter suggested that the written exam score be the greater of 75 percent or the overall passing score as recommended by the International Hearing Society.

RESPONSE 3: The board agrees that the proposed amendments to ARM 24.150.501 may allow an applicant to average the scores from several parts of the practical examination, which could adversely affect the health, safety, and welfare of the public. Therefore, the board is not amending ARM 24.150.501 at this time, but may consider amending this rule in future rulemaking projects.

COMMENT 4: One commenter suggested that the board amend ARM 24.150.503 to better clarify what trainee hours count toward the 1,000 hours of supervised training. The commenter stated that the trainee logs currently used by the department are confusing and inadequate and argued that the 1,000 hours should not be limited to supervised work for clients, since many trainees would be unable to get the required experience in only one year.

RESPONSE 4: The board agrees that the trainee logs should be amended. The board further notes that defining "supervision" or otherwise clarifying what experience counts toward the 1,000 hours of supervised training may be addressed in a future rule project. However, because these suggestions exceed the scope of the proposed notice, the board is amending ARM 24.150.503 exactly as proposed.

4. The board has amended ARM 24.150.401, 24.150.402, 24.150.503, 24.150.505, 24.150.2101, 24.150.2203, 24.150.2204, and 24.150.2301 exactly as proposed.

5. The board has amended ARM 24.150.301 and 24.150.2201 with the following changes, stricken matter interlined, new matter underlined:

24.150.301 DEFINITIONS (1) through (5) remain as proposed.

(a) the written International Hearing Society examination and a practical examination through the ~~International Institute for Hearing Instrument Studies~~ International Hearing Society, verifying the minimum competencies to fit and dispense hearing aids and related devices, with a passing score of 75 percent or greater on each examination; and

(b) remains as proposed.

24.150.2201 CONTINUING EDUCATION REQUIREMENTS (1) through (3) remain as proposed.

(4) Continuing education courses on fitting and dispensing hearing aids sponsored by the Montana Hearing Aid Society, the ~~National Institute for Hearing Instruments Studies~~ International Hearing Society, the American Speech Language Hearing Association, the American Conference of Audioprosthology, the Montana Speech and Hearing Association, the Academy of Dispensing Audiologists, and the American Academy of Audiology are preapproved. College courses and continuing education courses offered in related disciplines will be reviewed and approved by the board on a case-by-case basis.

(5) through (8) remain as proposed.

6. The board did not amend ARM 24.150.501 as proposed.

7. The board has amended and transferred ARM 24.150.502 (24.150.601) and 24.150.510 (24.150.602) exactly as proposed.

8. The board has repealed ARM 24.150.403, 24.150.504, and 24.150.2202 exactly as proposed.

BOARD OF HEARING AID DISPENSERS
LEE OINES, CHAIRMAN

/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 April 19, 2010