

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
AND THE BOARD OF MEDICAL EXAMINERS
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.101.413 renewal dates,)	PROPOSED AMENDMENT,
24.156.601, 24.156.603, 24.156.605,)	REPEAL, AND ADOPTION
24.156.615, 24.156.617, 24.156.618,)	
and 24.156.628 medical examiners-)	
licensure, 24.156.802 through)	
24.156.807, 24.156.809, and)	
24.156.810 telemedicine,)	
24.156.1002, 24.156.1004, and)	
24.156.1006 podiatry, 24.156.1301,)	
24.156.1302, 24.156.1305,)	
24.156.1306, and 24.156.1308)	
nutrition practice, 24.156.1402,)	
24.156.1411, and 24.156.1413)	
acupuncture, 24.156.1618 through)	
24.156.1620, 24.156.1622,)	
24.156.1623, and 24.156.1626)	
physician assistant-scope of practice,)	
the repeal of 24.156.610 reciprocity,)	
and the adoption of NEW RULE I)	
pertaining to board report obligations)	

TO: All Concerned Persons

1. On January 5, 2010, at 1:30 p.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed amendment, repeal, 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 Medical Examiners (board) no later than 5:00 p.m., on December 29, 2009, to advise us of the nature of the accommodation that you need. Please contact Jean Branscum, Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2360; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsmed@mt.gov.

3. The department is proposing to amend the following rule. The rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.101.413 RENEWAL DATES AND REQUIREMENTS (1) through (5)(q) remain the same.

(r)	Medical Examiners	Acupuncturist	Biennially	October 31
		Emergency Medical Technician	Biennially	March 31
		Nutritionist	Biennially	October 31
		Physician	Annually Biennially	March 31
		Physician Assistant	Biennially	October 31
		Podiatrist	Biennially	October 31
		Telemedicine Practitioners	Biennially	March 31

(s) through (7) remain the same.

AUTH: 37-1-101, 37-1-141, MCA
IMP: 37-1-101, 37-1-141, MCA

REASON: The department and the board are proposing rule amendments on license renewal frequency within one notice to reduce rulemaking costs and avoid any conflict between department and board rules. The board is shifting physician renewals back to a biennial cycle and the department is amending this rule to align with the board changes.

4. GENERAL STATEMENT OF REASONABLE NECESSITY: As part of a periodic review of its administrative rules, the board is proposing revisions throughout the rules. Some of the proposed amendments are technical in nature, such as renumbering or amending punctuation within certain rules following amendment and to comply with ARM formatting requirements. Other changes include updating terminology for current language and processes, deleting unnecessary or redundant sections, and amending rules and catchphrases for accuracy, grammar, consistency, simplicity, and better organization. The board determined it is reasonably necessary to replace the term "certificate" with "license" throughout the rules to achieve consistency and standardization in rule terminology.

The department and the board are proposing rule amendments regarding licensure renewal frequency within one notice to reduce rulemaking costs and avoid a conflict between department and board rules. In 2007, the board shifted physicians from biennial to annual renewal to accommodate some internal constraints with the 2007 online renewal process. It is reasonably necessary to amend the rules now and change physician renewals back to biennial as the online renewal issues were resolved and for consistency among all board renewals. The former annual fees will be doubled to their biennial amount and will result in no estimated change to board revenue.

The board is removing language from the rules that previously divided board licensees into different renewal periods. In 2006, department rules set forth a biennial renewal period for all board licensees. The board amended its rules to split

licensees into one or two year renewal periods based upon license number to help facilitate the transition from annual to biennial renewals. Because the phase-in period has passed, the board is now amending the rules to delete the transitional renewals and standardize biennial renewals for all board licensees.

The board is amending the rules to delete outdated language regarding licensee requirements for infectious waste management. The board concluded that OSHA does have requirements for the proper packing and labeling of used sharps and is removing the alternative procedure because it is no longer necessary.

The board is amending the rules throughout by deleting internal references to specific sections of the Montana Code Annotated. This deletion is reasonably necessary to comply with ARM formatting rules and reduce the incorrect references in rule that must be changed following amendment of a referenced statute.

Authority and implementation cites are being amended to accurately reflect all statutes implemented through the rules, provide the complete sources of the board's rulemaking authority, and delete citations to repealed statutes. 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.

5. The board is proposing to amend the following rules. The rules proposed to be amended provide as follows, stricken matter interlined, new matter underlined:

<u>24.156.601 FEE SCHEDULE</u> (1) remains the same.	
(a) <u>Application License application</u> fee reciprocity or endorsement	\$325
(b) Temporary certificate <u>license</u> fee	325
(c) remains the same.	
(d) Renewal fee (active)	<u>400</u>
(i) even numbered licenses renewing for one year	200
(ii) odd numbered licenses renewing for two years	400
(e) Renewal fee (inactive)	<u>200</u>
(i) even numbered licenses renewing for one year	100
(ii) odd numbered licenses renewing for two years	200
(f) Renewal fee (inactive-retired)	<u>65</u>
(i) even numbered licenses renewing for one year	32.50
(ii) odd numbered licenses renewing for two years	65
<u>(g) Limited temporary (resident) fee</u>	<u>100</u>
<u>(h) Limited temporary (resident) extension fee</u>	<u>50</u>
(2) and (3) remain the same.	

AUTH: 37-1-134, ~~37-1-141~~, 37-1-319, 37-3-203, MCA

IMP: 37-1-134, 37-1-141, ~~37-3-203~~, 37-3-304, 37-3-305, 37-3-308, 37-3-309, 37-3-311, 37-3-313, MCA

REASON: The board determined it is reasonably necessary to amend (1)(a) to specify that the license application fee for all physicians is the same. The amendment will correct an inaccuracy since all physician applicants pay the same license application fee, regardless of the method of licensure sought.

The board is also amending this rule to add fees for a limited temporary license and for extending that license to align with the license established in ARM 24.156.617 in this notice. Based on temporary licenses issued in the past two years, the board estimates issuing 20 licenses and two extensions per year with a resultant annual increase to board revenue of \$2,100.

24.156.603 APPLICATIONS FOR LICENSURE (1) Application forms will be provided to an applicant in accordance with the requirement of 37-3-305, MCA, and all of the requirements set forth in 37-3-101 through 37-3-405, MCA. In addition to the foregoing, the board may, in its discretion, require statements of good character and references from all areas where the applicant has previously ~~resided~~ practiced.

(2) The board may make an independent investigation of any applicant to determine whether the applicant has the qualifications necessary to be licensed, and whether the applicant has previously been guilty of any offenses which would constitute unprofessional conduct. The board may require the applicant to release any information or records pertinent to the board's investigation. The board shall require the applicant to furnish information ~~on~~ from all states in which the applicant has previously been licensed. The applicant must furnish references upon request by the board from each medical community in which the applicant has practiced.

(3) remains the same.

AUTH: 37-1-131, 37-3-203, MCA

IMP: 37-1-131, 37-3-101, 37-3-202, 37-3-309, MCA

REASON: The board is amending this rule to clarify the board's intent that references must be from the places of practice and the medical communities in which an applicant has worked, and not the community or place where the applicant has lived. The board determined that this clarification is necessary to address applicant confusion and to ensure the board receives adequate information on the quality of an applicant's past practice.

24.156.605 TEMPORARY CERTIFICATE LICENSE (1) and (2) remain the same.

AUTH: 37-3-203, MCA

IMP: 37-3-301, 37-3-304, 37-3-307, MCA

24.156.615 RENEWALS (1) remains the same.

(2) ~~Beginning with the 2008 renewal cycle, one-half of the All~~ licensees will renew for a period of ~~one year~~ two years.

~~(a) Licensees with an even numbered license will renew for a one-year period.~~

~~(b) Licensees with an odd numbered license will renew for a two-year period.~~

~~(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.~~

(3) A physician actively engaged in the practice of medicine with a ~~permanent~~ an active license shall pay a license renewal fee. If the physician does

not pay the license renewal fee and return the required renewal before the date set by ARM 24.101.413, the physician must pay the late penalty fee specified in ARM 24.101.403 in order to renew the physician's license.

(4) A physician with a ~~permanent~~ an active license who is not actively engaged in the practice of medicine in this state ~~or absent from this state~~ for a period of ~~one or more~~ than two years and who does not choose to practice medicine in Montana, may not renew as an active licensee, but may renew as an inactive licensee and pay the inactive fee listed in ARM 24.156.601.

(5) A physician with a ~~permanent~~ an active license who is not engaged in the practice of medicine and who has retired from practice may not renew ~~this license~~ as an active licensee, but may renew as an inactive-retired licensee and pay the fee listed in ARM 24.156.601. A retired license may not be reactivated. The individual must reapply for a new original license.

(6) remains the same.

AUTH: 37-1-131, 37-1-134, ~~37-1-141~~, 37-3-203, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, 37-3-313, MCA

REASON: The board is amending this rule to clarify the inactive renewal options for actively licensed physicians who are not actively practicing medicine. The board concluded that these amendments will further protect the public by ensuring that physicians with active licenses are actively engaged in the practice of medicine and are not retired or inactive.

24.156.617 ACTIVE AND INACTIVE LICENSE CATEGORIES (1) and (1)(a) remain the same.

(b) inactive license; ~~or~~

(c) inactive-retired license; ~~;~~ or

(d) limited temporary (resident).

(2) remains the same.

(a) ~~As used in this rule, "renewal period" means:~~

(i) ~~for even numbered licenses, the one-year period from the renewal date as listed in ARM 24.101.413 of a given year through the day immediately prior to the renewal date of the following year;~~

(ii) ~~for odd numbered licenses, the two-year period from the renewal date as listed in ARM 24.101.413 of a given year through the day immediately prior to the renewal date of the two-year cycle.~~

(b) (a) The term "actively practicing medicine" means the exercise of any activity or process identified in 37-3-102(6), MCA.

(c) ~~Beginning with the 2007 renewal cycle, one half of the licensees will renew for a period of one year. An active license must be renewed as follows:~~

(i) ~~licensees with an even numbered license will renew for a one-year period;~~
and

(ii) ~~licensees with an odd numbered license will renew for a two-year period.~~

(3) An inactive license may be obtained by a physician who is not actively practicing medicine in this state, and does not intend to actively practice medicine in

this state at any time during the current renewal period, but may wish to reactivate in the future next renewal period.

~~(a) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year. An inactive license must be renewed by the renewal date set by the department in ARM 24.101.413 as follows:~~

~~(i) licensees with an even numbered license will renew for a one-year period; and~~

~~(ii) licensees with an odd numbered license will renew for a two-year period.~~

~~(b) (a) To renew a license on inactive status, a physician must pay a fee prescribed by the board, and complete the renewal prior to the date set by ARM 24.101.413- , and, if the physician has not actively practiced for two years, pass the Special Purpose Exam (SPEX) given by the Federation of State Medical Boards.~~

~~(4) remains the same.~~

~~(a) Beginning with the 2007 renewal cycle, one-half of the licensees will renew for a period of one year. An inactive-retired license must be renewed by the renewal date set in ARM 24.101.413, as follows:~~

~~(i) licensees with an even numbered license will renew for a one-year period; and~~

~~(ii) licensees with an odd numbered license will renew for a two-year period.~~

~~(b) remains the same.~~

AUTH: 37-1-131, 37-1-141, 37-3-203, 37-1-319, MCA

IMP: 37-1-131, 37-1-141, 37-1-319, 37-3-304, 37-3-305, MCA

REASON: The board determined it is reasonably necessary to amend this rule to add a limited temporary (resident) license as allowed by 37-3-304 and 37-3-305, MCA. The board concluded that this type of limited temporary license will be issued to applicants in rural rotation residencies or other residency programs in Montana when needed for completion of a residency.

The board is amending (3) to require inactive physicians who have not practiced in two years to pass the SPEX exam to renew on inactive status. The board already requires new physician applicants and inactive physicians seeking to reactivate to pass this exam and the board is amending this rule for consistency.

24.156.618 TESTING REQUIREMENT (1) A physician seeking to reactivate a license which has been inactive ~~or inactive-retired~~ for the two or more years preceding the request for reactivation must pass the special purpose examination given by the Federation of State Medical Boards.

AUTH: 37-1-319, 37-3-203, MCA

IMP: 37-1-319, 37-3-101, 37-3-202, MCA

REASON: The board is amending this rule to eliminate a conflict between this rule and ARM 24.156.615 that prohibits the reactivation of a retired license.

24.156.628 MANAGEMENT OF INFECTIOUS WASTES (1) remains the same.

(2) Used sharps are properly packaged and labeled within the meaning of 75-10-1005(1)(a), MCA, when this is done as required by the Occupational Safety and Health Administration (OSHA). ~~If OSHA has no such requirements, the physician shall place them in a heavy, leakproof, puncture-resistant cardboard box and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container.~~

AUTH: 37-1-131, 37-3-203, 75-10-1006, MCA

IMP: 37-1-131, 75-10-1006, MCA

24.156.802 DEFINITIONS ~~The following definitions shall apply to these rules:~~ (1) and (2) remain the same.

(3) "Occasional telemedicine case" means the practice of medicine across state lines occurring less than five times in a calendar year or involves fewer than five patients in a calendar year.

(4) remains the same.

(5) "Telemedicine ~~certificate~~ license" means a ~~certificate~~ license issued by the board to practice telemedicine which:

(a) remains the same.

(b) limits the licensee to the practice of telemedicine as defined in these rules and only with respect to the specialty in which the licensee is board-certified or meets the current requirements to take the examination to become board-certified and on which the licensee bases the application for a telemedicine ~~certificate~~ license pursuant to 37-3-345(2), MCA.

(6) "Licensee" means the current holder of a telemedicine ~~certificate~~ license.

AUTH: 37-3-203, MCA

IMP: 37-3-342, MCA

REASON: The board is amending (3) to clarify and differentiate between the occasional telemedicine case, as defined in this telemedicine rule, and an occasional case exemption regarding the practice of medicine at ARM 24.156.611.

24.156.803 LICENSE REQUIREMENT (1) remains the same.

(a) a current telemedicine ~~certificate~~ license issued in accordance with the provisions of 37-3-341 through 37-3-349, MCA, or the rules of the board; or

(b) a full, unrestricted and current license issued under 37-3-301, MCA, ~~or~~ and the rules of the board.

AUTH: 37-1-131, 37-3-203, MCA

IMP: 37-1-131, 37-3-343, MCA

24.156.804 APPLICATION FOR A TELEMEDICINE CERTIFICATE LICENSE (1) An applicant for a telemedicine ~~certificate~~ license shall:

(a) through (d) remain the same.

AUTH: 37-1-131, 37-3-203, MCA
IMP: 37-1-131, 37-3-344, 37-3-345, MCA

24.156.805 FEES (1) and (1)(a) remain the same.

(b) The licensee shall submit a renewal fee of ~~\$150~~ \$300 (on or before the date set by ARM 24.101.413) in the form of a check or money order payable to the board, together with a completed renewal form.

(2) and (3) remain the same.

(4) All licensees will renew for a period of two years.

AUTH: 37-1-134, ~~37-1-141~~, 37-3-203, MCA
IMP: 37-1-134, 37-1-141, 37-3-344, 37-3-345, 37-3-347, MCA

24.156.806 FAILURE TO SUBMIT FEES (1) Failure of an applicant for a telemedicine ~~certificate~~ license to submit the required application fee and properly completed form within one year from receipt of the original application materials, shall be grounds for the board to discontinue processing the application ~~and to deny the application~~.

~~(2) Failure of a licensee to submit the required renewal fee and properly completed renewal form shall be grounds for the board to immediately cancel the telemedicine certificate. After cancellation of a telemedicine certificate for failure to submit the required renewal fee and form, the certificate may not be renewed, but another certificate may be issued on submission of a new application and compliance with 37-3-344 and 37-3-345, MCA.~~

AUTH: 37-3-203, MCA
IMP: 37-3-347, MCA

REASON: The board is amending this rule to clarify that telemedicine applications must be completed within a year. The board determined that this amendment is necessary to ensure that applicants understand that an application remains viable for only one year and that the application fees do have a shelf life.

The board is striking (2) from this rule as incorrect and unnecessary since the telemedicine renewal process is the same as for other board licensees.

24.156.807 ISSUANCE OF A TELEMEDICINE CERTIFICATE LICENSE

(1) The telemedicine ~~certificate~~ license issued by the board shall contain the name of the person to whom it is issued, the address of the person, the date and number of the ~~certificate~~ license and such other information as the board deems necessary. The address contained on the telemedicine ~~certificate~~ license shall be the address of the licensee where all correspondence and renewal forms from the board shall be sent during the two years for which the ~~certificate~~ license has been issued and shall be the address deemed sufficient for purposes of service of process.

AUTH: 37-3-203, MCA
IMP: 37-3-343, MCA

24.156.809 EFFECT OF DENIAL OF DETERMINATION THAT APPLICATION FOR TELEMEDICINE CERTIFICATE LICENSE DOES NOT MEET REQUIREMENTS (1) An applicant, who receives notice that the board has ~~denied~~ determined that an application for a telemedicine certificate license does not meet the licensing requirements because the anticipated practice will exceed the scope of a telemedicine license, may apply for a physician's license to practice medicine in Montana.

AUTH: 37-3-203, MCA

IMP: 37-3-347, MCA

REASON: The board is amending this rule to address inquiries to the board and clarify that a telemedicine applicant may apply for a physician's license if the scope of the applicant's intended practice falls outside the statutory limits of telemedicine.

24.156.810 EFFECT OF TELEMEDICINE CERTIFICATE LICENSE (1) The issuance by the board of a telemedicine ~~certificate~~ license to practice medicine across state lines subjects the licensee to the jurisdiction of the board in all matters set forth in 37-3-341 through 37-3-349, MCA, and the implementing rules and regulations of the board, including all matters related to discipline.

(2) It shall be the affirmative duty of every licensee to report to the board in writing within 15 days of the denial of hospital privileges, restriction or limitation of practice, or the initiation of any disciplinary action against the ~~certificate~~ license to practice medicine by any state or territory in which the licensee is licensed.

(3) The licensee agrees, by accepting the telemedicine ~~certificate~~ license, to produce patient medical records or other materials as requested by the board and to appear before the board or any of its screening panels following receipt of a written notice issued by the board or its authorized representative.

(4) and (5) remain the same.

(6) The licensee shall notify the board of any change in licensee's address as contained on the telemedicine ~~certificate~~ license within 30 days of such change.

(7) The licensee shall cooperate in the investigation of any possible grounds for discipline, including revocation or limitation of the ~~certificate~~ license, by timely compliance with all inquiries and subpoenas issued by the board for evidence or information. The licensee shall provide, within 21 days of receipt of a written request from the board, clear and legible copies of requested documents, including medical records, which may be related to possible grounds for discipline, including revocation or limitation of a telemedicine ~~certificate~~ license. Failure to timely comply with a board inquiry or subpoena or to provide clear and legible copies of requested records shall be grounds for discipline pursuant to the provisions of 37-3-348, MCA.

AUTH: 37-3-203, MCA

IMP: 37-3-342, 37-3-348, 37-3-349, MCA

24.156.1002 FEES (1) remains the same.

~~(a) The renewal fee for a podiatrist, whether actively engaged or not, in the practice of podiatry in the state of Montana shall be:~~

(i) even numbered licenses renewing for one year	\$200
(ii) odd numbered licenses renewing for two years	400
(b) Endorsement or reciprocity	325
<u>(a) license application fee</u>	<u>\$325</u>
<u>(b) active license renewal</u>	<u>400</u>
<u>(c) inactive license renewal</u>	<u>200</u>
(2) remains the same.	

AUTH: 37-1-134, ~~37-1-141~~, 37-6-106, MCA

IMP: 37-1-134, 37-1-141, ~~37-3-203~~, 37-6-302, MCA

REASON: The board is amending this rule to correct an inaccuracy and clarify that the license application fee for podiatrists is the same, regardless of the method of licensure sought.

The board is also amending this rule to specify and reduce an inactive podiatrist renewal fee. The board previously charged a \$400 biennial renewal fee whether a podiatrist was actively engaged in practice or not. The board is amending this rule to align with the inactive renewal fees currently assessed by the board for other licensed physicians. The board estimates that this change will affect approximately five licensees and reduce annual board revenue by \$1,000.

24.156.1004 RENEWALS (1) and (2) remain the same.

~~(3) Beginning with the 2007 renewal cycle, one-half of the All licensees will renew for a period of one year two years.~~

~~(a) Licensees with an even numbered license will renew for a one-year period.~~

~~(b) Licensees with an odd numbered license will renew for a two-year period.~~

~~(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.~~

(4) remains the same.

AUTH: 37-1-131, 37-1-134, 37-1-141, 37-6-106, MCA

IMP: 37-1-134, 37-1-141, 37-6-304, MCA

24.156.1006 MANAGEMENT OF INFECTIOUS WASTES (1) remains the same.

~~(2) Used sharps are properly packaged and labeled within the meaning of 75-10-1005(1)(a), MCA, when this is done as required by the Occupational Safety and Health Administration (OSHA). If OSHA has no such requirements, the podiatrist shall place them in a heavy, leakproof, puncture-resistant cardboard box and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container.~~

AUTH: 37-1-131, 37-6-106, 75-10-1006, MCA

IMP: 37-1-131, 75-10-1006, MCA

24.156.1301 DEFINITIONS ~~As used in this subchapter, the following definitions apply:~~

(1) remains the same.

~~(2) (5) Further, for the purpose of this subchapter, the definitions contained in subchapter 5 of the rules of the Montana State Board of Medical Examiners apply.~~

~~(2) "Association" means the American Dietetic Association.~~

~~(3) "Commission" means the Commission on Dietetic Registration, accredited by the National Commission for Certifying Agencies.~~

~~(4) "Standards of dietetic practice" means American Dietetic Association Standards of Practice and Standards of Professional Performance for Registered Dietitians.~~

AUTH: 37-1-131, 37-25-201, MCA

IMP: 37-25-201, 37-25-302, MCA

REASON: The board is amending this rule to further define specific terms used in board statutes and rules regarding licensed nutritionists and to specify the source of the standards of dietetic practice for nutritionists' professional conduct.

24.156.1302 FEES (1) and (1)(a) remain the same.

(b) Renewal fee

~~50~~ 100

~~(i) even numbered licenses renewing for one year~~

~~50~~

~~(ii) odd numbered licenses renewing for two years~~

~~100~~

(2) remains the same.

AUTH: 37-1-134, ~~37-1-141~~, 37-25-201, MCA

IMP: 37-1-134, 37-1-141, ~~37-3-203, 37-25-201~~, 37-25-302, MCA

24.156.1305 RENEWALS (1) and (2) remain the same.

~~(3) Beginning with the 2007 renewal cycle, one-half of the All licensees will renew for a period of one year two years.~~

~~(a) Licensees with an even numbered license will renew for a one-year period.~~

~~(b) Licensees with an odd numbered license will renew for a two-year period.~~

~~(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.~~

(4) and (5) remain the same.

AUTH: 37-1-131, 37-1-134, ~~37-1-141~~, 37-25-201, MCA

IMP: 37-1-134, 37-1-141, ~~37-25-307~~, MCA

24.156.1306 PROFESSIONAL CONDUCT AND STANDARDS OF PROFESSIONAL PRACTICE (1) A licensee shall conform to generally-accepted principles and the standards of dietetic practice which are those generally recognized by the profession as appropriate for the situation presented, including

those promulgated or interpreted by or under the association or commission, and other professional or governmental bodies.

(2) and (3) remain the same.

AUTH: 37-1-131, 37-25-201, MCA
IMP: 37-25-201, 37-25-301, MCA

24.156.1308 MANAGEMENT OF INFECTIOUS WASTES (1) remains the same.

(2) Used sharps are properly packaged and labeled within the meaning of 75-10-1005(1)(a), MCA, when this is done as required by the Occupational Safety and Health Administration (OSHA). ~~If OSHA has no such requirements, the nutritionist shall place them in a heavy, leakproof, puncture-resistant cardboard box and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container.~~

AUTH: 37-1-131, 37-25-201, 75-10-1006, MCA
IMP: 37-1-131, 75-10-1006, MCA

24.156.1402 FEES (1) remains the same.

(2) The renewal fee to practice acupuncture will be:	<u>\$100</u>
(a) even numbered licenses renewing for one year	\$ 50
(b) odd numbered licenses renewing for two years	100

(3) remains the same.

AUTH: 37-1-134, ~~37-1-141~~, 37-13-201, ~~37-13-301, 37-13-302, 37-13-304, 37-13-305~~, MCA
IMP: 37-1-134, 37-1-141, ~~37-3-203~~, 37-13-302, 37-13-304, ~~37-13-305~~, MCA

24.156.1411 RENEWALS (1) and (2) remain the same.

(3) ~~Beginning with the 2007 renewal cycle, one-half of the All licensees will renew for a period of one year~~ two years.

~~(a) Licensees with an even numbered license will renew for a one-year period.~~

~~(b) Licensees with an odd numbered license will renew for a two-year period.~~

~~(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.~~

(4) remains the same.

AUTH: 37-1-131, ~~37-1-134~~, 37-1-141, 37-13-201, MCA
IMP: 37-1-134, 37-1-141, ~~37-13-306~~, MCA

24.156.1413 MANAGEMENT OF INFECTIOUS WASTES (1) remains the same.

(2) Used sharps are properly packaged and labeled within the meaning of 75-10-1005(1)(a), MCA, when this is done as required by the Occupational Safety and Health Administration (OSHA). ~~If OSHA has no such requirements, the acupuncturist shall place them in a heavy, leakproof, puncture-resistant cardboard box and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container.~~

AUTH: 37-1-131, 37-13-201, 75-10-1006, MCA
IMP: 37-1-131, 75-10-1006, MCA

24.156.1618 PHYSICIAN ASSISTANT FEES (1) through (1)(b) remain the same.

(c) active renewal fee (2006)	400 <u>200</u>
(d) active biennial renewal (2007)	200
(e) <u>(d)</u> inactive renewal fee (2006)	50 <u>100</u>
(f) inactive biennial renewal fee (2007)	400
(g) (e) supervision agreement fee	25

(2) and (3) remain the same.

AUTH: 37-1-134, 37-20-202, MCA
IMP: 37-1-134, 37-1-141, 37-20-302, MCA

24.156.1619 RENEWALS (1) and (2) remain the same.

~~(3) Beginning with the 2007 renewal cycle, one-half of the All licensees will renew for a period of one year two years.~~

~~(a) Licensees with an even numbered license will renew for a one-year period.~~

~~(b) Licensees with an odd numbered license will renew for a two-year period.~~

~~(c) Following the completion of this phase-in to biennial renewal, all licensees will renew for a period of two years.~~

(4) remains the same.

AUTH: 37-1-131, 37-1-134, 37-1-141, 37-20-202, MCA
IMP: 37-1-134, 37-1-141, 37-20-302, MCA

24.156.1620 PHYSICIAN ASSISTANT LICENSE RENEWAL (1) Physician assistant licenses are issued on a biennial renewal cycle, ~~beginning January 1, 2007. For the renewal cycle in 2007, licensees whose licenses end in an odd number will renew for two years and pay the full renewal fee. Licensees whose licenses end in an even number will renew for one year and pay half of the renewal fee.~~

(2) through (5) remain the same.

AUTH: 37-1-131, 37-20-202, MCA
IMP: 37-1-141, ~~37-20-202~~, 37-20-203, 37-20-302, 37-20-402, MCA

24.156.1622 SUPERVISION OF PHYSICIAN ASSISTANT AND RURAL ACUTE CARE AND EMERGENCY ROOM SUPERVISION AGREEMENT

(1) through (3) remain the same.

(4) A physician assistant entering into a supervision agreement to practice in a rural acute care facility or in an emergency room setting must provide proof to the board that the physician assistant has at least one year's practice experience in an acute care or emergency room setting. A physician assistant seeking a waiver of this requirement shall provide evidence to the board of experience equivalent to or exceeding one year of experience.

AUTH: 37-1-131, 37-20-202, MCA

IMP: 37-1-131, 37-20-101, 37-20-301, 37-20-403, MCA

REASON: The board is amending this rule to ensure that physician assistants who are either new graduates or who have previously practiced only in a nonacute care practice do not enter into a supervision agreement to practice in a rural acute care practice or an emergency room without prior experience. Because a physician assistant may be the only advanced-level practitioner in such a rural setting and thus practicing alone, the board determined that patient outcomes could be severely impacted if the physician assistant had no prior acute care experience. The amendment is reasonably necessary to ensure the adequate protection of the public in these rural settings.

24.156.1623 CHART REVIEW (1) and (2) remain the same.

~~(3)~~ (5) The supervising physician shall countersign and date all written entries that have been chart reviewed and shall document any amendments, modifications, or guidance provided.

(3) Chart review for a physician assistant entering into a new supervision agreement shall be 100 percent for the first three months of the new agreement.

(4) remains the same.

AUTH: 37-20-202, MCA

IMP: 37-20-101, 37-20-301, MCA

REASON: The board is amending this rule to require that physician assistants practicing under new supervision agreements have verifiable 100 percent chart review. The board concluded that this requirement will ensure that the supervising physician's oversight of the physician assistants charts is comprehensive, extensive, and detailed enough to allow the physician assistant to develop a practice consistent with the supervising physician's practice.

24.156.1626 MANAGEMENT OF INFECTIOUS WASTES (1) remains the same.

(2) Used sharps are properly packaged and labeled within the meaning of 75-10-1005(4)(a), MCA, when this is done as required by the Occupational Safety and Health Administration (OSHA). ~~If OSHA has no such requirements, the physician assistant certified shall place them in a heavy, leakproof, puncture-~~

~~resistant cardboard box and secure the lid with reinforced strapping tape. The container shall bear the words "used medical sharps" on a distinctive label taped or securely glued on the container.~~

AUTH: 37-1-131, ~~37-20-201~~, 37-20-202, 75-10-1006, MCA
IMP: 37-1-131, 75-10-1006, MCA

6. The rule proposed to be repealed is as follows:

24.156.610 RECIPROCITY found at ARM page 24-15045.

AUTH: 37-3-203, MCA
IMP: 37-3-306, 37-3-307, 37-3-311, MCA

REASON: The board is repealing this rule as there has not been a state examination offered for a number of years and the language is outdated and unnecessary.

7. The proposed new rule provides as follows:

NEW RULE I OBLIGATION TO REPORT TO THE BOARD (1) A nutritionist licensed under this chapter shall report to the board within three months from the date of a final judgment, order, or agency action, all information related to malpractice, misconduct, criminal, or disciplinary action in which the nutritionist is a named party.

(2) A nutritionist with suspected or known impairment shall self-report to the board. In lieu of reporting to the board, the nutritionist may self-report to the board-endorsed professional assistance program.

(3) A nutritionist is obligated to report suspected or known impairment of other health care providers to the appropriate licensing board, agency, or in lieu of the board or agency, may report to the endorsed professional assistance program.

AUTH: 37-1-131, 37-25-201, MCA
IMP: 37-1-131, 37-25-201, MCA

REASON: The board is adopting this new rule to set forth the requirements for licensed nutritionists to report discipline, impairment, and other information to the board. Because licensees normally report such information at renewal and nutritionists renew every two years, the board determined it is reasonable and necessary to adopt this new rule to ensure timely reporting of legal and disciplinary actions by nutritionists.

8. 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 Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail

to dlibsmed@mt.gov, and must be received no later than 5:00 p.m., January 13, 2010.

9. 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.medicalboard.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.

10. 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 Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsmed@mt.gov, or made by completing a request form at any rules hearing held by the agency.

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

12. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF MEDICAL EXAMINERS
DR. JAMES UPCHURCH, PHYSICIAN,
CHAIRPERSON

/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 November 30, 2009