

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

In the matter of the amendment of)
ARM 24.156.1401, 24.156.1403,)
24.156.1404, 24.156.1406, and)
24.156.1412 acupuncturist licensure)
and unprofessional conduct,)
24.156.1622 and 24.156.1623)
physician assistant supervision and)
chart review, the adoption of New)
Rules I through V acupuncturist)
discipline reporting and continuing)
education, and New Rule VI)
physician assistant performing)
radiologic procedures, and the repeal)
of 24.156.1405 acupuncture school)
approval)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT,
ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On September 27, 2011, at 10:00 a.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment, adoption, and repeal 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 no later than 5:00 p.m., on September 23, 2011, to advise us of the nature of the accommodation that you need. Please contact Maggie Connor, Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2303; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsmed@mt.gov.

3. GENERAL STATEMENT OF REASONABLE NECESSITY: Following a review of the acupuncture rules, the board is proposing several revisions and one repeal of existing rules in subchapter 14. Some of the amendments are technical in nature, such as renumbering or correcting punctuation or spelling within rules, or to comply with ARM formatting requirements. Other changes update rules with current acupuncture examination, accreditation, and continuing education entities; delete erroneous citations or rule sections that are clearly addressed in statute; reorganize and relocate rule sections for accuracy, consistency, simplicity, and ease of use; and amend rule text or catchphrases for correctness.

The board's acupuncturist subcommittee, comprised of both board members and non-board representatives, met several times and recommended rule

amendments and the adoption of New Rules I through V in this notice. The amendments clearly set forth current board licensure requirements and procedures; relocate provisions within the rules for clarity and ease of use; and streamline and simplify existing rules to align with current board processes. New Rule I establishes the obligation to report licensee discipline and impairment to the board for acupuncturists to be consistent with requirements for all professionals licensed by the board. The committee also determined it is important for public safety for licensed acupuncturists to keep current with developments both within the profession and across related professional boundaries. The board is proposing New Rules II through V to establish continuing education requirements for licensed acupuncturists, and to clearly set forth the processes for course approval and the reporting and auditing for compliance with these requirements.

Accordingly, the board has determined that reasonable necessity exists to amend certain acupuncture rules and adopt new rules at this time. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule. Authority and implementation cites are being amended throughout to accurately reflect all statutes implemented through the rules, delete references to repealed statutes, and provide the complete sources of the board's rulemaking authority.

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

24.156.1401 DEFINITIONS (1) ~~The term "gross malpractice" as used in 37-3-311, MCA, includes, but is not limited to, the following:~~ "Examinations" means the examinations required for certification in acupuncture as granted by the National Commission for the Certification of Acupuncture and Oriental Medicine, or its successor.

~~(a) failure to utilize sterile needle technique, as articulated by the National Commission for the Certification of Acupuncturists, or its successor~~

(2) "National Commission for the Certification of Acupuncture and Oriental Medicine" is the organization known before 1997 as the National Commission for the Certification of Acupuncturists.

(3) "Council of Colleges for Acupuncture and Oriental Medicine" means the organization responsible for administering the clean needle technique examination.

(4) "Accreditation Commission for Acupuncture and Oriental Medicine" is the organization known before 1997 as the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine.

AUTH: 37-1-131, 37-13-201, MCA

IMP: 37-13-201, 37-13-302, ~~37-13-311, 37-13-312~~, MCA

24.156.1403 REQUIREMENTS FOR LICENSURE (1) Applicants for licensure must meet the ~~requirements prerequisites~~ for and pass the examination prepared and administered examinations required for certification in acupuncture by the National Commission for the Certification of Acupuncturists Acupuncture and Oriental Medicine, or its successor.

(2) Applicants for licensure must pass ~~all three components of the examination in sterile clean~~ needle technique administered by the ~~National Commission for the Certification of Acupuncturists~~ Council of Colleges for Acupuncture and Oriental Medicine, or its successor.

AUTH: 37-13-201, MCA

IMP: 37-13-201, MCA

24.156.1404 APPLICATION FOR LICENSURE (1) ~~All applications shall be made on a printed form provided by the board and no application made otherwise will be accepted. Each applicant must provide the names of three references who are knowledgeable as to the applicant's moral character and competence as an acupuncturist. Each application shall be accompanied by a recent photograph of the applicant which has been signed by the applicant and dated as to when taken. Each applicant shall submit a sworn affidavit that he is reasonably able to communicate verbally and in writing in the English language. An applicant for an acupuncture license shall submit an application on a form prescribed by the department. The application must be complete and accompanied by the appropriate fees and the following information and/or documentation:~~

(a) applicant's current original unopened National Practitioner Data Bank (NPDB) self-query report;

(b) applicant's official transcript from a school accredited by the Accreditation Commission for Acupuncture and Oriental Medicine;

(c) three written character references, two of which are licensed acupuncturists;

(d) applicant's clean needle and examination results provided by the National Commission for the Certification of Acupuncture and Oriental Medicine;

(e) recent photograph of the applicant which has been signed by the applicant and dated as to when taken;

(f) copy of birth certificate or driver's license; and

(g) copy of DD214 military discharge, if applicable.

(2) Applicants licensed in another state or jurisdiction shall cause all states and jurisdictions in which the applicant holds or has ever held a license to submit a current verification of licensure directly to the board on behalf of the applicant.

(3) Applicants whose applications are received, processed, and determined to be incomplete will be sent a letter from the board office specifying the deficiencies which may include, but not be limited to, appropriate fees, verifications, character references, and any other supplemental information the board or its designee deems appropriate. An incomplete application will be held for a period of one year at which time the application will be treated as an expired application and all fees will be forfeited. The applicant may correct any deficiencies and submit missing or additionally requested information or documentation necessary to complete the application within one year from the date the initial application is received in the board office.

(4) The applicant may voluntarily withdraw the application prior to the one-year deadline set forth in (3) by submitting a request for withdrawal in writing to the board office. All application fees submitted will be forfeited.

(5) After withdrawal of an application, the applicant will be required to submit a new application, including supporting documentation and appropriate fees, to begin the licensing and verification process again.

(6) Completed applications shall be reviewed by the board or its designee, which may request such additional information or clarification of information provided in the application as deemed reasonably necessary.

AUTH: 37-13-201, MCA

IMP: 37-13-302, MCA

24.156.1406 CURRICULUM APPROVAL (1) Subsection 37-13-302(2)(c), MCA, means that the applicant for licensure as an acupuncturist must establish one of the following: The board will review any equivalent curriculum as provided for in 37-13-302, MCA, on an individual basis, using acceptable curriculum existing at the time of the individual's study as a guide for evaluation.

~~(a) that the applicant has graduated from a school approved by the National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM) and that the school offers a curriculum of at least 1000 hours of entry-level training in recognized branches of acupuncture; or~~

~~(b) that the applicant has attended a school which, although the school may not be approved by NACSCAOM, offers a curriculum which is the equivalent of a 1000 hour course of entry-level training in recognized branches of acupuncture, and thereby merits the board's approval as a basis for licensure.~~

AUTH: This rule is advisory only, but may be a correct interpretation of law, ~~37-13-102, 37-13-201, MCA~~

IMP: 37-13-301, 37-13-302, 37-13-304, MCA

REASON: The board is deleting (1)(a) and (b) as the information is already set forth in statute at 37-13-302, MCA. These changes, and the removal of the advisory notation in the authority cites, follow a determination that the board is allowed, in law, to review and approve equivalent curriculum and is not allowed to approve schools not approved by National Accreditation Commission for Schools and Colleges of Acupuncture and Oriental Medicine (NACSCAOM), or after 1997 the Accreditation Commission for Acupuncture and Oriental Medicine (ACAOM).

24.156.1412 UNPROFESSIONAL CONDUCT (1) In addition to those forms of unprofessional conduct defined in 37-1-316, MCA, the following is unprofessional conduct for a licensee or license applicant under Title 37, chapter 13, MCA:

~~(1) Commission of an act of sexual abuse, misconduct or exploitation. Each of the following acts constitutes sexual abuse, misconduct or exploitation, even where the patient is perceived as seductive:~~

~~(a) physical or verbal sexual contact or intercourse during the course of the professional relationship, whether in or out of the practitioner's place of business~~
Failure to maintain professional boundaries in relationships with patients, or in any way exploiting the practitioner/patient trust;

~~(b) failure to maintain appropriate boundaries Engaging in sexual contact with a current patient if the contact commences after the practitioner/patient relationship is established;~~

~~(c) failure to provide the patient with an opportunity to undress and dress in private Engaging in sexual contact with a former patient, unless a reasonable period of time has elapsed since the professional relationship ended and unless the sexual contact does not exploit the trust established during the professional relationship;~~

~~(d) failure to provide the patient with the opportunity to wear underwear or a patient gown during treatment;~~

~~(e) failure to fully drape all parts of the patient's body except that being treated; failure to obtain informed verbal consent before undraping or treating the patient's breasts, buttocks, abdomen or genitals;~~

~~(f) use of inappropriate parts of the practitioner's body to brace the patient;~~

~~(g) palpation by other than the practitioner's hands; palpation beyond that which is necessary to accomplish a competent examination or treatment;~~

~~(h) sexual repartee, innuendo, jokes or flirtation;~~

~~(i) sexual comments about the patient's person or clothing;~~

~~(j) inquiry into the patient's sexual history or behavior beyond that which is necessary for a competent examination, diagnosis or treatment. The practitioner shall not be unnecessarily intrusive; the practitioner shall not verbalize any value judgment concerning the patient's sexual history or behavior;~~

~~(k) attempting to diagnose or treat a sexual issue beyond the practitioner's scope of training or practice;~~

~~(l) failure to refer a case of suspected sexual abuse for more specialized professional help;~~

~~(2) Failure to obtain informed consent for treatment. In order to obtain informed consent, the practitioner must give the patient at least:~~

~~(a) a description of the proposed treatment, including:~~

~~(i) the body part to be treated,~~

~~(ii) the type of treatment,~~

~~(iii) the possible sensations the patient might feel,~~

~~(iv) the duration of treatment, and~~

~~(v) the possible outcome of the treatment;~~

~~(b) the practitioner's reason or rationale for the treatment proposed;~~

~~(c) the choice to accept or reject the proposed treatment, or any part of it, before or during the treatment.~~

~~(3) Failure to maintain appropriate patient charts in the English language;~~

~~(4) (d) Failure to utilize sterile clean needle technique, as articulated required by the National Commission for the Certification of Acupuncturists Acupuncture and Oriental Medicine, or its successor;~~

~~(5) Conviction, including conviction following a plea of nolo contendere, of an offense involving moral turpitude, whether misdemeanor or felony, and whether or not an appeal is pending;~~

~~(6) Fraud, misrepresentation, deception or concealment of a material fact in applying for or securing a license, or license renewal, or in taking an examination required for licensure; as used herein, "material" means any false or misleading statement or information;~~

(7) through (12) remain the same, but are renumbered (e) through (j).

~~(13) Habitual intemperance or excessive use of an addictive drug, alcohol or any other substance to the extent that the use impairs the user physically or mentally;~~

(14) and (15) remain the same, but are renumbered (k) and (l).

~~(16) Failing to report to the board any adverse judgment, settlement or award arising from an acupuncture liability claim or other unprofessional conduct;~~

(17) through (20) remain the same, but are renumbered (m) through (p).

~~(24) (q)~~ Except as provided in this subsection, practicing acupuncture as the partner, agent or employee of, or in joint venture with, a person who does not hold a license to practice acupuncture within this state; however, this does not prohibit:

~~(a) (i)~~ the incorporation of an individual licensee or group of licensees as a professional service corporation under Title 35, chapter 4, MCA;

~~(b) (ii)~~ the organization of a professional limited liability company under Title 35, chapter 8, MCA, for the providing of professional services as defined in Title 35, chapter 8, MCA;

~~(c) (iii)~~ practicing acupuncture as the partner, agent or employee of, or in joint venture with, a hospital, medical assistance facility or other licensed health care provider; however,

~~(i) (A)~~ the partnership, agency, employment or joint venture must be evidenced by a written agreement containing language to the effect that the relationship created by the agreement may not affect the exercise of the acupuncturist's independent judgment in the practice of acupuncture;

~~(ii) (B)~~ the acupuncturist's independent judgment in the practice of acupuncture must in fact be unaffected by the relationship; and

~~(iii) (C)~~ the acupuncturist may not be required to refer any patient to a particular provider or supplier or take any other action that the acupuncturist determines not to be in the patient's best interest;

(22) remains the same but is renumbered (r).

~~(s) Misrepresenting professional credentials (i.e. education, training, experience, level of competence, skills, and/or certification status);~~

~~(t) Engaging in conduct that demonstrates a lack of knowledge of, or lack of ability in, or failure to apply the prevailing principles and/or skills of the profession in which the individual has been certified; and~~

(23) remains the same, but is renumbered (u).

AUTH: 37-1-134, 37-1-136, 37-1-319, 37-13-201, MCA

IMP: 37-1-308, 37-1-309, 37-1-310, 37-1-311, 37-1-312, 37-1-316, 37-1-319, 37-13-201, ~~37-13-311, 37-13-312~~, MCA

REASON: Following recommendations by the acupuncturists subcommittee, the board is simplifying and streamlining this rule by deleting conduct already addressed in department statute and by eliminating redundant and excessively detailed descriptions of conduct relating to sexual contact and informed consent.

24.156.1622 SUPERVISION OF PHYSICIAN ASSISTANT (1) and (1)(a) remain the same.

- (b) ~~on-site~~ onsite supervision; or
- (c) remains the same.

(2) The supervising physician shall consider the location, nature, and setting of the practice and the experience of the physician assistant when entering into a new supervision agreement and a duties and delegation agreement to assure the safety and quality of physician assistant services.

(2) and (3) remain the same, but are renumbered (3) and (4).

(5) The supervision agreement and delegation and duties agreement for nonroutine applicants must assure the safety and quality of physician assistant services, considering the location, nature, and setting of the practice and the experience of the physician assistant, and shall provide for:

(a) an appropriate type or combination of types of supervision identified in (1), including specific supervising physician response and availability times;

(b) an appropriate scope of delegation of practice authority and appropriate limitations upon the practice authority of the physician assistant;

(c) appropriate frequency and duration of face-to-face meetings; and

(d) an appropriate percentage of physician assistant charts that must be reviewed by the supervising physician.

(6) The supervision agreement and delegation and duties agreement for nonroutine applicants may provide for periodic changes in the type of supervision, scope of delegation, practice limitations, frequency, and duration of face-to-face meetings, and percentage of charts reviewed, based upon the duration and nature of experience gained by the physician assistant, the supervising physician's written assessment and evaluation of the physician assistant's experience and judgment, and other factors relevant to the nature and degree of supervision appropriate to assure the safety and quality of physician assistant services.

(7) A supervising physician and physician assistant must submit the proposed supervision agreement and delegation and duties agreement to the board for approval, and as a condition of approval, must demonstrate to the board:

(a) that the supervision agreement and delegation and duties agreement comply with this rule and all other applicable requirements; and

(b) that the supervising physician and physician assistant have a complete and functional understanding of their respective responsibilities under the agreements and applicable laws and rules.

(8) A physician assistant may not practice as a physician assistant in this state prior to board approval of the supervision agreement and delegation and duties agreement.

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

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

REASON: The board is amending this rule to clarify for licensed physician assistants and supervising physicians that proposed supervision agreements must be written with consideration of the experience level of the physician assistant and the environment in which the physician assistant will practice. The board determined the need for clarification based on regular reviews of supervision agreements and interviews with newly licensed physician assistants and/or

physicians new to the task of providing supervision to physician assistants. The board acknowledges the extreme pressures placed on physician assistants in frontier locations, and especially on new graduates, where they often perform professional services without other health care providers available to assist them. The board concluded these amendments are necessary to further the board's duty to protect the public.

The board considered the various practices that physician assistants might engage in when employed in urban areas, versus rural and frontier practices, or when a physician assistant works in an isolated setting after being in a group practice. The board considered times when a physician assistant, previously supervised by a physician in a certain specialty practice, switches supervising physicians or changes the physician assistant's specialty to align with the new supervisor's specialty. Following consideration of these various potential practice situations, the board determined it is necessary to amend this rule and review both the supervision agreement and the delegation and duties agreement to ensure an appropriate level of supervision and delegation of duties.

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

(3) remains the same, but is renumbered (4).

(4) remains the same, but is renumbered (3).

(5) A supervising physician shall not be deemed out of compliance with the chart review percentage requirements of this section if the supervising physician demonstrates review of at least 95 percent of the required number of chart reviews.

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

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

REASON: Following the review and for the reasons described for amendments to ARM 24.156.1622 above, the board is amending this rule to clarify when a supervising physician would be in noncompliance for not conducting chart reviews at the appropriate level.

5. The proposed new rules provide as follows:

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

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

(3) An acupuncturist 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, 37-13-201, MCA

IMP: 37-1-131, MCA

NEW RULE II CONTINUING EDUCATION FOR ACUPUNCTURISTS (1)

Each acupuncture licensee of the Board of Medical Examiners shall earn 15 clock hours of accredited continuing acupuncture education each year. Clock hours or contact hours shall be the actual number of hours during which instruction was given.

(2) A maximum of eight clock hours may be given for the first-time preparation of a new course, in-service training workshop, or seminar which is related to the enhancement of acupuncture practice, values, skills, and knowledge; or a maximum of eight clock hours credit may be given for the preparation by the author or authors of a professional acupuncture paper published for the first time in a recognized professional journal; or given for the first time at a statewide or national professional meeting.

(3) If a licensee completes more than 15 hours of continuing education in a year, excess hours in an amount not to exceed 15 hours may be carried forward to the next year.

(4) Any licensee may apply for a hardship exemption from the continuing acupuncture education requirements of these rules by filing a statement with the board setting forth good faith reasons why he or she is unable to comply with these rules and an exemption may be granted by the board.

(5) Acupuncture applicants licensed after May 1 are required to obtain one-half of the 15-hour requirement; and those licensed after August 1, will not be required to obtain continuing education credits for renewal. Acupuncture applicants licensed between November 1 and April 30 are required to meet the 15-hour requirement.

AUTH: 37-1-131, 37-1-319, 37-13-201, MCA

IMP: 37-1-131, 37-1-306, 37-13-201, MCA

NEW RULE III ACCREDITATION, APPROVAL, AND STANDARDS (1)

The board shall appoint a continuing education review committee which shall assist the board in approving courses, papers, workshops, and other activities designed to meet the continuing education requirements of licensed acupuncturists.

(2) The continuing education review committee shall approve continuing acupuncture education courses, papers, workshops, and other activities that meet the following standards:

(a) They shall have significant intellectual or practical content, and the primary objective shall be to increase the participant's professional competence as an acupuncturist.

(b) They shall constitute an organized program of learning dealing with matters directly related to the practice of acupuncture, professional responsibility, or ethical obligations of acupuncturists.

(c) Providers of continuing acupuncture education and authors of published papers shall apply to the board for course or publication approval by submitting an application on a form prescribed by the department. The application must be complete and accompanied by the appropriate documents.

(d) Applicants shall demonstrate that the offered course complies with the standards.

(e) The board, in its discretion, may determine the number of hours acceptable for any continuing education credit.

(f) Courses accredited by the National Commission for the Certification of Acupuncture and Oriental Medicine shall be preapproved by the board.

AUTH: 37-1-131, 37-1-319, 37-13-201, MCA

IMP: 37-1-131, 37-1-306, 37-13-201, MCA

NEW RULE IV REPORTING REQUIREMENTS (1) Each licensee shall maintain a record of courses attended on a form approved by the board, attesting to the number of accredited continuing education hours completed each year.

AUTH: 37-1-131, 37-1-319, 37-13-201, MCA

IMP: 37-1-131, 37-1-306, 37-13-201, MCA

NEW RULE V CONTINUING EDUCATION AUDIT (1) The board shall conduct a random audit of continuing education following each renewal period.

(2) Licensees selected for the audit shall submit documentation as required in Rule Reporting Requirements that attests to completion of the continuing education hours.

(3) Failure to comply with continuing education requirements may be grounds for discipline.

AUTH: 37-1-131, 37-1-319, 37-13-201, MCA

IMP: 37-1-131, 37-1-306, 37-13-201, MCA

NEW RULE VI PHYSICIAN ASSISTANT PERFORMING RADIOLOGIC PROCEDURES – ROUTINE AND ADVANCED PROCEDURES (1) A physician assistant performing routine radiologic procedures must maintain an active limited technologist permit issued by the Montana Board of Radiologic Technologists or provide proof to the board that he or she has completed the United States Army MOS-68P radiologic training course, or a course equivalent to that required for a limited technologist permit. The board shall verify completion of a course different from but equivalent to that required for a limited technologist permit and document, in board minutes, acceptance of such course completion before a physician assistant may perform routine radiological procedures.

(2) A physician assistant performing routine radiologic procedures who holds a limited technologist permit or whose education has been accepted by the board as equivalent to that of a limited technologist permit holder may not perform procedures that exceed the scope of practice of a limited technologist permit holder. Routine radiologic procedures within the scope of practice of a limited technologist permit holder are set forth in rule and adopted by the Montana Board of Radiologic Technologists.

(3) A physician assistant performing fluoroscopy or advanced radiologic procedures must meet the education requirements established by the Board of Radiologic Technologists for a Radiology Practitioner Assistant license. The board shall verify completion of such educational requirements and document acceptance of such educational requirements in board minutes.

(4) A physician assistant performing advanced radiologic procedures may not perform radiologic procedures that exceed the scope of practice of a radiologic practitioner assistant as set forth in rule by the Montana Board of Radiologic Technologists.

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

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

REASON: The board determined it is reasonably necessary to adopt New Rule VI and clarify for licensed physician assistants and supervising physicians the additional training and permit or licensure requirements necessary for physician assistants to perform routine and advanced radiologic procedures. The Board of Radiologic Technologists brought concerns to the board regarding physician assistants performing x-ray procedures in clinics with minimal instruction or training. The board determined public health and safety is best protected through the assurance that a physician assistant has acquired proper training and is capable of performing high-quality x-ray procedures. The Board of Radiologic Technologists has the statutory authority to issue radiologic technologist licenses or limited technologist permits and is the proper licensing board for setting the educational levels and training needed to qualify for a license or permit.

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

24.156.1405 APPROVAL OF SCHOOLS found at ARM page 24-15282.

AUTH: 37-13-201, MCA

IMP: 37-13-302, MCA

REASON: The board determined it is reasonably necessary to repeal this rule as (1) unnecessarily repeats statutory language in 37-13-302, MCA, and (2) is being moved to ARM 24.156.1406 within this notice.

7. 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., October 5, 2011.

8. 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.

9. 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.

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

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

BOARD OF MEDICAL EXAMINERS
ANNA EARL, MD, 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 August 15, 2011