

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

In the matter of the amendment of ) NOTICE OF PUBLIC HEARING ON  
ARM 24.156.603 applications for ) PROPOSED AMENDMENT  
licensure )

TO: All Concerned Persons

1. On May 20, 2013, 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 of the above-stated rule.

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 May 13, 2013, to advise us of the nature of the accommodation that you need. Please contact Ian Marquand, 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 rule proposed to be amended provides as follows, stricken matter interlined, new matter underlined:

24.156.603 APPLICATIONS-- FOR-EXPEDITED 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 practiced.~~

(2) ~~The~~ When an application contains information including, but not limited to, criminal matters, malpractice history, or irregularities in medical education or practice, 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 applicant's behavior constitutes~~ unprofessional conduct under 37-1-316, MCA, or ARM 24.156.625. The board may require the ~~such~~ applicant to release any information or records pertinent to the board's investigation. The board shall require the applicant to furnish information 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) An applicant who has not engaged in the active clinical practice of medicine, excluding residency or fellowship training, for the two or more years preceding his or her application must, ~~in addition to meeting all other~~ meet the

requirements for licensure, ~~pass the special purpose examination given by the Federation of State Medical Boards, or its successor set forth in ARM 24.156.618.~~

(4) A board-certified physician who has been licensed for at least five years immediately preceding the application in at least one other state, the District of Columbia, a U.S. territory, or a Canadian province, and who has been in active clinical practice for all of those five years, and has no disciplinary or medical malpractice cases pending, settled, or adjudicated against the physician during the five years of practice immediately preceding the application, and no more than one malpractice claim, settlement, or judgment resulting in a payment exceeding \$50,000 in the ten years immediately preceding the application, may apply for a license on an expedited basis.

(5) An applicant for a license on an expedited basis shall:

(a) submit a completed application on a form approved by the board;

(b) attest under oath on a form provided by the department that the information on the application is true and complete, and that falsification of any information is grounds for license denial or revocation;

(c) submit a signed release on a form provided by the department authorizing the release to the board of all information pertaining to the application;

(d) submit documentation of legal name change, if applicable;

(e) provide verification that the applicant has held an active, unrestricted license to practice medicine for at least five years immediately preceding the application;

(f) submit evidence of active clinical practice providing patient care for an average of 20 hours or more per week for the five years immediately preceding the application;

(g) provide verification of certification or recertification within the past ten years by an American Board of Medical Specialties (ABMS)- or an American Osteopathic Association (AOA)-approved specialty board, or be a Certificant of the College of Family Physicians of Canada (CCFP), a Fellow of the Royal College of Physicians (FRCP), or a Fellow of the Royal College of Surgeons (FRCS);

(h) pay to the board a nonrefundable fee of \$325; and

(i) supply any additional information the board deems necessary to evaluate the applicant's qualifications.

(6) The board shall independently verify information from the American Medical Association (AMA) Physician Profile, or, if the applicant is an osteopathic physician, from the American Osteopathic Association (AOA) Physician Profile, the Federation of State Medical Boards (FSMB) and the National Practitioner Data Base (NPDB) in order to expedite licensing.

(7) A physician who has any of the following is not eligible to apply for a license on an expedited basis:

(a) professional liability insurance claims(s) or payments(s) in the five years immediately preceding the application or more than one such claim, settlement or judgment resulting in a payment exceeding \$50,000 in the ten years immediately preceding the application;

(b) criminal convictions or pending criminal charges other than motor vehicle violations or misdemeanors resulting in a fine of more than \$100;

(c) medical conditions which could affect the physician's ability to practice safely, including addiction to or intemperate use of addictive substances;

(d) regulatory board or licensing board complaints, investigations, or actions, including withdrawal of a license application;

(e) investigations or adverse actions, including denial, restriction, suspension, revocation, expulsion from or termination of hospital, clinic, or surgical center privileges, taken by a hospital, institutional staff, medical school, federal agency, or the U.S. military; or

(f) has graduated from a U.S. or Canadian medical school that is not Liaison Committee on Medical Education (LCME)-approved or Committee on Accreditation of Canadian Medical Schools (CACMS)-approved, or has graduated from a foreign medical school.

(8) An applicant who is found to be ineligible for licensing on an expedited basis will be informed by the board that the applicant is not eligible and the application will be processed on a nonexpedited basis.

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

IMP: 37-1-131, 37-3-101, 37-3-202, 37-3-305, 37-3-306, 37-3-309, MCA

REASON: The board has determined that an expedited pathway to licensure should be established for routine physician license applicants with exemplary practice histories. The board is therefore amending this rule to allow such applicants to gain licensure and enter the medical workforce more quickly, while ensuring the public safety through the necessary qualifications. The proposed amendments come as the result of discussions among the board, professional associations, and the legislature, although they are not in response to specific legislation.

Implementation cites are being amended to accurately reflect all statutes implemented through the rule.

4. 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](mailto:dlibsmed@mt.gov), and must be received no later than 5:00 p.m., May 28, 2013.

5. An electronic copy of this Notice of Public Hearing is available through the department and board's web site at [www.medicalboard.mt.gov](http://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.

6. 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](mailto:dlibsmed@mt.gov); or made by completing a request form at any rules hearing held by the agency.

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

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

BOARD OF MEDICAL EXAMINERS  
KRISTIN SPANJIAN, MD, 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 April 15, 2013