

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 24.156.615 renewals,) PROPOSED AMENDMENT
24.156.617 license categories, and)
24.156.618 reactivation of license)

TO: All Concerned Persons

1. On November 21, 2013, at 1:30 p.m., a public hearing will be held in room B-07, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment 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 November 15, 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; dlibsdmed@mt.gov (board's e-mail).

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

24.156.615 RENEWALS (1) through (3) remain the same.

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

(a) A physician seeking to renew an inactive Montana license as an active license (reactivate), and who has ceased the clinical practice of medicine in all jurisdictions for the two or more years during which the license has been inactive preceding the request for reactivation, must seek reactivation pursuant to ARM 24.156.618.

~~(5) A physician with a permanent license not engaged in the practice of medicine and who has retired from practice may renew this license 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, but is renumbered (5).

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

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

REASON: The board previously amended its rules to allow physicians with an inactive Montana license, but who have continuously practiced in another state, to reactivate their Montana license for physicians. The board determined it is reasonably necessary to now amend (4) to address current inactive licensees who have ceased practicing medicine and who wish to reactivate at the time of license renewal. This amendment refers those licensees to the proposed amended ARM 24.156.618, which the board intends to be the rule on physician reactivations.

The board is deleting (5) from this rule, and amending ARM 24.156.617, to remove the "inactive-retired" status from physician licensing. The board has determined that this status serves no purpose, since licensees having the status may not practice or reactivate the license under any circumstance, yet have to pay a renewal fee every two years to maintain the status. Authority citations are being amended to accurately reflect the statutory sources of the board's rulemaking authority.

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

(b) inactive license; or

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

(d) remains the same, but is renumbered (c).

(2) through (4)(a) remain the same.

~~(5) An inactive-retired license may be obtained by an applicant or licensed physician who is not actively practicing medicine in this state and does not intend ever to practice medicine in this state in the future.~~

~~(a) An inactive-retired license must be renewed by the renewal date set in ARM 24.101.413.~~

(b) remains the same.

AUTH: 37-1-131, 37-1-319, 37-3-203, 37-3-802, 37-3-804, MCA

IMP: 37-1-131, 37-1-141, 37-1-319, 37-3-304, 37-3-305, 37-3-802, 37-3-804, MCA

24.156.618 TESTING REQUIREMENT REACTIVATION OF LICENSE (1) A physician seeking to reactivate a Montana license, which has been inactive for the two or more years preceding the request for reactivation, and who has ceased the clinical practice of medicine in all jurisdictions for the entire time during which the license has been inactive, ~~must either have been board certified/recertified during the two years preceding the request for reactivation or pass the special purpose examination (SPEX) or the comprehensive osteopathic medical variable-purpose examination (COMVEX) given by the Federation of State Medical Boards, and may also be required to complete a reentry plan to the satisfaction of the board. The board must review and approve a reentry plan as determined appropriate by the board prior to the applicant beginning the reentry plan. Depending on the amount of time out-of-practice, the applicant may also be required to do one or more of the following:~~

(a) and (b) remain the same.

(c) complete one year of accredited postgraduate or clinical fellowship training, which must be preapproved by the board, ~~or;~~

(d) ~~complete any other requirements as determined by the board~~ pass the Special Purpose Examination (SPEX) or the Comprehensive Osteopathic Medical Variable Purpose Examination (COMVEX). The applicant who is required to take the SPEX or COMVEX and fails the SPEX or COMVEX examination three times, whether in Montana or other states, must successfully complete one year of an accredited residency or an accredited or board-approved clinical training before retaking the SPEX or COMVEX examination;

(e) undergo a competency evaluation by an entity approved by the board;

(i) if deemed necessary, complete a reentry plan that has been approved by the board prior to the applicant beginning the plan, to the satisfaction of the board;

(f) complete any other requirements as determined by the board; and

(g) pay the difference between the fee for an inactive and active license.

~~(2) (3) A physician seeking to participate in the Montana health corps and holding an active license, must pass the special purpose examination given by the Federation of State Medical Boards if the physician has not actively practiced who has ceased the clinical practice of medicine for two or more years preceding the health corps application date, is required to comply with the requirements set forth in (1).~~

(3) remains the same, but is renumbered (2).

AUTH: 37-1-319, 37-3-203, 37-3-802, MCA

IMP: 37-1-319, 37-3-101, 37-3-202, 37-3-802, MCA

REASON: The board previously amended this rule at the request of licensees to allow multiple pathways for reactivation of an inactive physician license at any time during a license period, and cease the sole reliance on testing as the requirement for reactivation. Since testing is no longer the sole means of reactivation, the board determined it is reasonably necessary to amend this rule to become the rule on physician reactivation, and to expand the number of pathways to reactivation. Following amendment, this rule will align with ARM 24.156.615 on inactive physician license renewals.

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 dlibsdmed@mt.gov, and must be received no later than 5:00 p.m., November 29, 2013.

5. An electronic copy of this Notice of Public Hearing is available at www.medicalboard.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.

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 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 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.

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

8. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of the above-stated rules will not significantly and directly impact small businesses.

Documentation of the board's determination is available upon request to the Board of Medical Examiners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by telephone (406) 841-2360; facsimile (406) 841-2305; or by e-mail to dlibsmed@mt.gov.

9. Ian Marquand, Executive Officer for the Board of Medical Examiners, 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 October 21, 2013