

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT,
ARM 24.201.301 definitions,) ADOPTION, AND REPEAL
24.201.410 fee schedule, 24.201.415)
CPA/LPA designation, 24.201.502,)
24.201.516 through 24.201.518,)
24.201.528, 24.201.531, 24.201.532,)
24.201.535, and 24.201.537 licensing)
examinations, 24.201.701,)
24.201.704 through 24.201.710,)
24.201.718, 24.201.720, 24.201.723,)
and 24.201.726 professional conduct)
rules, 24.201.1106 through)
24.201.1108, and 24.201.1115)
profession monitoring rules,)
24.201.2101, 24.201.2105,)
24.201.2106, 24.201.2108,)
24.201.2113, 24.201.2114,)
24.201.2120, 24.201.2121,)
24.201.2124, 24.201.2136 through)
24.201.2139, 24.201.2145,)
24.201.2146, 24.201.2148,)
24.201.2154, and 24.201.2161)
renewal and continuing education,)
24.201.2401 and 24.201.2410)
complaint procedures, the adoption of)
NEW RULE I exercise of practice)
privilege in other jurisdictions, and the)
repeal of 24.201.1111 profession)
monitoring of holders of special)
practice permit, 24.201.2112)
compliance with continuing education)
for nonresidents, 24.201.2122,)
24.201.2123, 24.201.2130 through)
24.201.2132, 24.201.2147, and)
24.201.2155 renewal and continuing)
education)

TO: All Concerned Persons

1. On August 26, 2010, the Board of Public Accountants (board) published MAR notice no. 24-201-44 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 1836 of the 2010 Montana Administrative Register, issue no. 16.

2. On September 20, 2010, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the September 27, 2010, deadline.

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

Comments 1 and 2 relate to ARM 24.201.410:

COMMENT 1: One commenter stated that it is difficult to believe that annual revenue will be increased approximately \$184,240 due to the proposed fee increases and said, "Wow!"

RESPONSE 1: The board appreciates all comments made during rulemaking.

COMMENT 2: A commenter supported the need to increase fees, but stated the increases seem excessive and suggested raising fees incrementally in the future.

RESPONSE 2: The board notes that they have not raised fees in many years, and that incrementally raising fees requires a rule change each time. Rule changes are fairly costly, since they require filing fees, notice costs, and publication costs. The board declines to make any changes based on this comment.

COMMENT 3: A commenter suggested amending the experience requirements in ARM 24.201.502 to bring Montana's requirements more into line with the Uniform Accountancy Act (UAA). The commenter noted that UAA experience includes accounting, attest, compilation, management advisory, financial advisory, tax, or consulting work, while this rule still requires accounting and auditing.

RESPONSE 3: The board considers accounting and auditing to include the types of experience the commenter lists and notes the definition of "public accounting" at 37-50-101(10), MCA. The board believes accounting experience includes academic employment and is amending the rule exactly as proposed.

COMMENT 4: One commenter supported the amendments to ARM 24.201.516 and making the 18-month period end on the last day of the last month, but noted that "taken and passed" might be confusing, since these are two different dates.

RESPONSE 4: The board agrees that the language may be confusing and is amending the rule accordingly.

Comments 5 and 6 relate to ARM 24.201.528:

COMMENT 5: A commenter noted a misspelling of principal in (2) of this rule.

RESPONSE 5: The board agrees and is amending the rule accordingly.

COMMENT 6: One commenter noted that Montana requires five years' experience in the previous ten years, while the Uniform Accountancy Act (UAA) requires only four years and imposes less burdensome additional qualifications. The UAA also permits individuals establishing their principal place of business in Montana to qualify for a Montana license, based on substantially equivalent qualifications.

RESPONSE 6: The board acknowledges this comment, but is amending the rule exactly as proposed.

Comments 7 and 8 relate to ARM 24.201.531:

COMMENT 7: One commenter noted a misspelling of Northern Mariana Island in (2)(c).

RESPONSE 7: The board agrees and is amending the rule to correct the spelling.

COMMENT 8: One commenter noted that Colorado passed the 150-hour education requirement to take effect in 2014. The commenter suggested amending (2) to state that the board deems all jurisdictions approved by NASBA as substantially equivalent, so the rule would not need to be amended again in 2014.

RESPONSE 8: The board acknowledges the comment, but declines to amend this rule based on this comment.

COMMENT 9: One commenter opined that ARM 24.201.1106(5) could impede mobility, since it requires that firms notify the board of the peer review status in their principal places of business. The commenter questioned whether the requirement applies only to 37-50-335(3), MCA, and if it would trump the proposed rule. The commenter suggested amending the rule to state that it applies only to the exemption in (2) and that (2) only applies to out of state firms.

RESPONSE 9: The board acknowledges the concerns and is not amending this rule at this time.

COMMENT 10: One commenter stated that the new peer review standards, effective after January 1, 2009 and referenced in ARM 24.201.1108, no longer require a letter of comment, but still require a letter of response.

RESPONSE 10: The board acknowledges the comment and may consider this in a future rulemaking project.

COMMENT 11: One commenter stated that ARM 24.201.2106 no longer references reporting on financial statements, but ARM 24.201.2138(2) still mentions this.

RESPONSE 11: The board acknowledges the comment and will consider this change in a future rulemaking project.

COMMENT 12: A commenter noted that ARM 24.201.2146 references a form prescribed by the board, and asked the board to consider requiring a board approved form so licensees could submit forms produced by software they use to track and report CPE hours, as they have done for many years.

RESPONSE 12: The board acknowledges the comment and will consider this change in a future rulemaking project.

COMMENT 13: One commenter said the requirement in ARM 24.201.2410(1)(g) to notify the board of the suspension, revocation, termination, or discipline of an individual's license in any jurisdiction is overbroad and should be limited to the person's principal place of business. The commenter noted that since a licensee could have a license revoked or terminated as a method of relinquishment (by failing to complete CPE when the individual no longer desires to complete the renewal requirements, for example) and stated that limiting the rule to the principal place of business would still protect the public.

RESPONSE 13: The board acknowledges the comment but is amending this rule exactly as proposed.

4. The board has amended ARM 24.201.301, 24.201.415, 24.201.502, 24.201.517, 24.201.518, 24.201.532, 24.201.535, 24.201.537, 24.201.701, 24.201.704 through 24.201.710, 24.201.718, 24.201.720, 24.201.723, 24.201.726, 24.201.1107, 24.201.1108, 24.201.1115, 24.201.2101, 24.201.2105, 24.201.2106, 24.201.2114, 24.201.2120, 24.201.2121, 24.201.2124, 24.201.2136 through 24.201.2139, 24.201.2145, 24.201.2146, 24.201.2148, 24.201.2154, 24.201.2401, and 24.201.2410 exactly as proposed.

5. The board has amended ARM 24.201.410, 24.201.516, 24.201.528, 24.201.531, 24.201.2108, 24.201.2113, and 24.201.2161 with the following changes, stricken matter interlined, new matter underlined:

24.201.410 FEE SCHEDULE (1) through (3) remain as proposed.

AUTH: 37-1-134, 37-50-203, 37-50-204, ~~37-50-323~~, MCA

IMP: 37-1-134, 37-1-141, 37-50-204, 37-50-314, ~~37-50-323~~, MCA

24.201.516 GRANTING OF EXAMINATION CREDIT (1) remains as proposed.

(a) An applicant for a certificate as a certified public accountant needs to pass all four test sections within a rolling 18-month period, which begins on the date the first test section was ~~taken and~~ passed, and ends on the last day of the last month of that 18-month period. An applicant may take any section of the examination up to four times during a one-year period but cannot retake any failed test section in any one three-month testing period. In the event all four test sections

are not passed in the rolling 18-month period, credit for any test section passed outside the 18-month period will expire and that test section must be retaken.

(b) An applicant for a license as a licensed public accountant needs to pass any three test sections within a rolling 18-month period, which begins on the date the first test section was ~~taken and passed~~, and ends on the last day of the last month of that 18-month period. An applicant may take any section of the examination up to four times during a one-year period, but cannot retake any failed test section in any one three-month testing period. In the event three test sections are not passed in the rolling 18-month period, credit for any test section passed outside the 18-month period will expire and that test section must be retaken.

(2) remains as proposed.

24.201.528 LICENSURE OF OUT-OF-STATE APPLICANTS SEEKING A MONTANA CERTIFICATE, LICENSE, OR PERMIT (1) remains as proposed.

(2) An individual whose ~~principle~~ principal place of business is out of state and who qualifies for the practice privilege is exempt from permitting or licensing requirements pursuant to 37-50-325, MCA.

(3) through (4) remain as proposed.

24.201.531 PRACTICE PRIVILEGE (1) through (2)(b) remain as proposed.

(c) Commonwealth of the Northern ~~Marianna~~ Mariana Island; and
(d) through (v) remain as proposed.

AUTH: 37-50-203, ~~37-50-323~~, MCA

IMP: 37-1-306, 37-50-203, ~~37-50-317~~, ~~37-50-323~~, 37-50-325, MCA

24.201.2108 WHO MUST COMPLY - GENERAL (1) and (2) remain as proposed.

AUTH: 37-50-201, 37-50-203, ~~37-50-323~~, MCA

IMP: 37-50-203, 37-50-314, ~~37-50-323~~, 37-50-325, MCA

24.201.2113 NONRESIDENT HOLDERS OF A PERMIT TO PRACTICE - COMPLIANCE (1) and (2) remain as proposed.

~~History~~ AUTH: 37-50-201, 37-50-203, ~~37-50-323~~, MCA

IMP: 37-50-203, 37-50-314, ~~37-50-323~~, 37-50-325, MCA

24.201.2161 REINSTATEMENT (1) remains as proposed.

AUTH: 37-50-201, 37-50-203, MCA

IMP: 37-50-203, 37-50-314, ~~37-50-322~~, MCA

6. The board did not amend ARM 24.201.1106 as proposed.

7. The board has adopted NEW RULE I (24.201.2402) exactly as proposed.

8. The board has repealed ARM 24.201.1111, 24.201.2112, 24.201.2122, 24.201.2123, 24.201.2130 through 24.201.2132, 24.201.2147, and 24.201.2155 exactly as proposed.

BOARD OF PUBLIC ACCOUNTANTS
RICK REISIG, CPA, 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 October 18, 2010