

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

In the matter of the amendment of)
ARM 24.201.301 definitions,)
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)

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

TO: All Concerned Persons

1. On September 20, 2010, at 10:00 a.m., a public hearing will be held in room 439, 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 Public Accountants (board) no later than 5:00 p.m., on September 17, 2010, to advise us of the nature of the accommodation that you need. Please contact Amy Maracle, Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2389; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2323; e-mail dlibsdpac@mt.gov.

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

24.201.301 DEFINITIONS ~~For purposes of these rules the following terms have the meanings indicated:~~

(1) through (8) remain the same.

(9) "Practice privilege" means that privilege extended pursuant to 37-50-325, MCA, to a qualified individual whose principal place of business is not in this state and who holds a valid license as a certified public accountant.

(10) "Practice privilege holder" means an individual who avails himself or herself of the practice privilege.

(9) and (10) remain the same, but are renumbered (11) and (12).

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this definition section as a result of new legislation passed during the 2009 legislative session, with an effective date of October 1, 2009, Chapter 109, Laws of 2009 (House Bill 80). The new definitions are used to add clarifying new terms included in 37-50-325, MCA, granting practice privileges for mobility eligible certified public accounts in jurisdictions with substantially equivalent standards and requirements.

24.201.410 FEE SCHEDULE (1) remains the same.

(a) Certified public accountant out-of-state application	\$ 400 <u>150</u>
(b) Transfer of grades (all parts)	400 <u>150</u>
(c) Annual fee for nonpermit holder	45 <u>75</u>
(d) Annual fee for permit to practice (regular permit or special practice permit)	90 <u>150</u>
(e) Application as applicant for examination	25 <u>50</u>
(f) Late fee for failure to comply with CPE requirements in accordance with ARM 24.201.2106	400 <u>125</u>
(g) Late fee for failure to submit CPE reporting form within one month following the end of the CPE reporting year	25 <u>50</u>
(h) Fees for profession monitoring program reviews:	
(i) audits	450 <u>600</u>

(ii) reviews	225 <u>350</u>
(iii) compilations with disclosures	225 <u>350</u>
(iv) compilations without disclosures	445 <u>200</u>
(i) Late fee for failure to timely file quarterly reports by practice units under pre-issuance review	400 <u>125</u>
(j) Late fee for failure to timely file profession monitoring program reports	
(i) less than 31 days late	400 <u>150</u>
(ii) more than 30 days late	500 <u>600</u>
(2) and (3) remain the same.	

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

REASON: The board determined it is reasonably necessary to amend this rule to eliminate the reference to the special practice permit fee. With the passage of legislation during the 2009 session, the special practice permit is no longer issued. With the elimination of the special permit to practice, there is no longer a need to specify what type of permit to practice requires an annual fee, as only one type now exists. There also is reasonable necessity to increase fees to cover the costs of the board for issuing licenses, certificates, and permits, and for monitoring and regulating the profession of the practice of public accounting. Pursuant to 37-1-134, MCA, the fees set by the board must be commensurate with costs.

The board estimates that the fee changes will affect all of the approximately 3655 persons who hold or apply for a certificate, license, and practice permit issued by the board. Based on the fees paid during fiscal year 2010, the board estimates that the annual amount of the fee increase proposed in this rule will be approximately \$184,240.

24.201.415 USE OF CPA/LPA DESIGNATION (1) Certificate Montana certificate or license holders whose principal place of business is in Montana, who are not otherwise in the practice of public accounting, but providing financial or consulting services to the public, must have permits to practice if they hold themselves out to the public in any manner as a CPA or LPA.

(2) Certificate Montana certificate or license holders working for nonpublic accounting employers shall not use their CPA or LPA designations when presenting reports to outside parties, unless they maintain a permit to practice.

(3) Firms that comply with the exemption requirement of 37-50-335(2), MCA, and individuals who qualify for and are using the practice privilege granted by 37-50-325, MCA, may use the CPA designation pursuant to 37-50-301, MCA.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-301, 37-50-325, 37-50-335, MCA

REASON: The board determined it is reasonably necessary to amend this rule to add clarity concerning who is allowed to use the CPA designation. With the passage

of HB 80 in the 2009 legislative session, a Montana certificate holder must also maintain a permit to practice in order to use the CPA designation, but by reference to 37-50-335(2), MCA, out-of-state firms that have a board-sanctioned compliance or peer review and obtain a certain level of acceptance, can also use the CPA designation without obtaining a permit to practice. This amendment will clarify that all certificate or license holders whose principle business is in Montana must hold a permit to practice to use the CPA designation. Out-of-state licensees who obtained a practice privilege may use the CPA designation without obtaining a permit to practice.

24.201.502 ACCOUNTING AND AUDITING EXPERIENCE REQUIREMENTS (1) through (2)(a) remain the same.

(b) takes place in the ~~five~~ three years prior to the date of the application for permit to practice; and

(c) includes at least:

(i) ~~12 calendar months (2000 hours actual work experience) with at least 500 hours of attest oriented experience requiring application of generally accepted standards and issuance of reports requiring application of generally accepted accounting principles. The prescribed experience may be fulfilled from a combination of attest experience having as its objective financial audits, compliance audits, reviews, compilations, or internal financial audits; or~~

(ii) ~~24 calendar months (4000 hours actual work experience)~~ of private, governmental, academic, or public accounting work acceptable to the board.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include academic experience as an acceptable means of obtaining the experience necessary to qualify for a permit to practice. Recently, educators have approached the board requesting a means to obtain a permit to practice and use the CPA/LPA designation. The board has recognized academia in the past and determined it is appropriate to put the public on notice of this alternative means of obtaining acceptable experience.

The board determined it is reasonably necessary to amend this rule to bring Montana experience requirements more in line with the Uniform Accountancy Act (UAA). Compliance with the UAA is used to evaluate and determine if a state's requirements are substantially equivalent. Substantial equivalence is the foundation of mobility and was enacted by the 2009 Legislature, in passing HB 80.

24.201.516 GRANTING OF EXAMINATION CREDIT (1) remains the same.

(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 the same.

AUTH: 37-50-204, MCA

IMP: 37-50-204, 37-50-302, 37-50-303, MCA

REASON: The board determined it is reasonably necessary to amend this rule to eliminate any confusion about when the 18-month period ends for those taking the uniform CPA exam. Recently, ending the 18-month period on the date of the first examination taken and passed, led to confusion and unfortunate timing errors, as applicants scheduled retake exams during the 18th month, but after the exact day. Clarification is needed to give notice to exam candidates of the timing requirements in completing all parts of the exam. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.517 ACCEPTANCE OF EXAMINATION CREDITS (1) In order for credits for passing the Uniform Certified Public Accountant Examination to be recognized by the board, an applicant who has never held a certificate as a certified public accountant, or a license as a licensed public accountant in any ~~state~~ jurisdiction must have earned those credits under circumstances comparable to those applicable to Montana applicants at the time those credits were earned. Those circumstances and conditions include the conditioning requirements for accumulation of examination credits, if the applicant did not pass all required parts of the examination on the first attempt.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-50-302, 37-50-303, 37-50-309, MCA

REASON: The board finds it reasonably necessary to amend this rule to accommodate foreign candidates attempting to obtain a certificate or license in Montana. Prior to this amendment, a certified or licensed public accountant in another jurisdiction might not have their uniform CPA examination results count, even if they were earned under similar circumstances. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.518 EXAMINATION CREDITS - OUT-OF-STATE APPLICANTS SEEKING A CERTIFICATE/LICENSE IN MONTANA (1) and (2) remain the same.

AUTH: 37-50-204, MCA

IMP: 37-50-204, 37-50-302, 37-50-303, 37-50-309, MCA

REASON: The board is amending the catchphrase of this rule to clarify that it applies only to those applicants seeking a certificate or license in Montana. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.528 LICENSURE OF OUT-OF-STATE APPLICANTS SEEKING A MONTANA CERTIFICATE, LICENSE, OR PERMIT (1) The board may issue a certificate, license, or permit to practice to a holder of a current and unencumbered certificate, license, or permit to practice issued under the laws of another ~~state~~ jurisdiction upon the applicant's meeting the applicable requirements established under 37-50-203, 37-50-302, 37-50-303, and 37-50-314, MCA, and the rules established thereunder.

(2) An individual whose principle 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.

~~(2) (3)~~ The board may waive the education requirements and issue a certificate, license, or permit to practice to a holder of a certificate, license, or permit issued by another ~~state~~ jurisdiction upon the applicant's showing that:

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

AUTH: 37-50-203, 37-50-309, MCA

IMP: 37-1-304, 37-1-306, 37-50-311, 37-50-312, 37-50-313, 37-50-314, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that licensing requirements apply only to individuals seeking a Montana certificate, license, or permit and does not apply to an out-of-state practitioner entering the state, under the newly enacted practice privilege passed during the 2009 legislative session.

24.201.531 SPECIAL PRACTICE PERMIT PRIVILEGE (1) ~~Persons wishing to practice public accounting in Montana pursuant to a special practice permit, as authorized by 37-50-323, MCA, must apply to the board and pay the appropriate fee.~~

(2) For the purposes of determining whether a A certified public accountant who is licensed in a jurisdiction that has licensing standards that are substantially equivalent to Montana's standards, or who meets the individual substantial equivalent standards, may practice under the practice privilege pursuant to 37-50-325, MCA.

(2) the The board has determined that the following all jurisdictions approved by NASBA are deemed to be "substantially equivalent". As of October 2009, the following jurisdictions are "substantially equivalent":

- (a) remains the same.
- (b) Guam; ~~and~~
- (c) Commonwealth of the Northern Marianna Island; and
- ~~(e)~~ (d) all of the states in the United States of America, except:
 - (i) Colorado;
 - (ii) ~~Delaware;~~
 - (iii) ~~Florida;~~
 - (iv) ~~New Hampshire; and~~
 - (v) ~~Vermont.~~

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

REASON: The board determined it is reasonably necessary to amend this rule to reflect the 2009 Legislature's repeal of the special practice permit and the enactment of the practice privilege for qualified individuals from jurisdictions with substantially equivalent certifying, licensing, and permitting standards and requirements.

24.201.532 APPLICATION REVIEW (1) All applications, except ~~these~~ applications for a ~~special practice permit~~, firm registration are considered nonroutine and must be reviewed by the board.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, 37-50-335, MCA

REASON: The board determined it is reasonably necessary to amend this section to delete the reference to special practice permits, pursuant to the legislative repeal of such permits in HB 80. The amendment is being proposed to enact new legislation.

The board determined it is reasonably necessary to clarify that firm registration applications are routine applications and can be issued by the department without board review. This coincides with the current practice of issuing firm registrations when they are filed. The application of this rule was not broadly applied to firm registrations until very recently, and it was not the intent of the original rule adoption to have all firm registrations reviewed by the board. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.535 REACTIVATION OF INACTIVE STATUS (1) and (2) remain the same.

(3) Upon application and payment of the appropriate fee, the board may reactivate an inactive license if the applicant presents ~~satisfactory evidence~~ documentation verifying that the applicant has complied with the continuing education rules of the board under ARM 24.201.2106, within the three years immediately preceding the application for reactivation.

(4) Montana holders of certificates, licenses, or permits who avail themselves of practice privileges in other jurisdictions, may not place the Montana certificate, license, or permit on inactive status while using the practice privilege.

AUTH: 37-1-319, 37-50-203, MCA
IMP: 37-1-319, 37-50-325, MCA

REASON: The board is amending this rule to ensure that Montana holders of certificates, licenses, or permits comply with the intent of mobility and the practice privilege. The amendment is being proposed to enact new legislation.

24.201.537 RETIRED STATUS (1) and (2) remain the same.

(3) Montana holders of certificates, licenses, or permits who avail themselves of practice privileges in other jurisdictions may not place the Montana certificate, license, or permit on retired status while using the practice privilege.

AUTH: 37-1-131, MCA
IMP: 37-1-131, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that Montana certificate, license, or permit holders who practice public accounting in another jurisdiction, by using their Montana certificate/license/permit to obtain practice privilege, cannot then put that Montana license on inactive status and continue to perform public accounting services using practice privilege. The ability to use practice privilege was passed in HB 80 during the 2009 legislative session.

24.201.701 DEFINITIONS (1) remains the same.

(2) "Contingent fee" means a fee established for the performance of any service pursuant to an arrangement in which no fee will be charged, unless a specified finding or result is attained, or in which the amount of the fee is otherwise dependent upon the finding or result of such service. Solely for purposes of this rule, fees are not regarded as being contingent if fixed by courts or other public authorities, or, in tax matters, if determined based on the result of judicial proceeding or the finding of governmental agencies. A firm's, ~~or~~ permit holder's, or practice privilege holder's fees may vary depending, for example, on the complexity of services.

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

REASON: The board determined it is reasonably necessary to amend this rule to include the references of practice privilege holder and the permit holder, as those license types have the same discretion on charging fees as a certificate/license holder. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.704 INDEPENDENCE (1) Independence, where required by professional standards, is essential to establishing and maintaining the public's faith and confidence in, and reliance on, the information reported on by the licensee, permit holder, or practice privilege holder. A licensee, permit holder, or practice privilege holder in the practice of public accounting shall be independent in fact and appearance when engaged to provide services where independence is required by professional standards.

(a) Independence in fact is the state of mind that permits a licensee, permit holder, or practice privilege holder to perform an attest service without being affected by influences that compromise professional judgment, thereby allowing the licensee, permit holder, or practice privilege holder to act with integrity and exercise objectivity and professional skepticism.

(b) Independence in appearance is the avoidance of circumstances that would cause a reasonable and informed third party, having knowledge of all relevant information, to reasonably conclude that the integrity, objectivity, or professional skepticism of the licensee, permit holder, or practice privilege holder had been compromised.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the references of practice privilege holder and the permit holder, as those license types have the same independence requirements as a certificate/license holder. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.705 INTEGRITY AND OBJECTIVITY (1) Integrity is a character trait demonstrated by acting honestly, candidly, and not knowingly misrepresenting facts, accommodating deceit, or subordinating ethical principles. Acting with integrity is essential to maintaining credibility and public trust. It incorporates both the spirit and substance in the application of the ethical and technical standards that govern the profession, or in the absence thereof, what is just and right. A licensee, permit holder, or practice privilege holder shall act with integrity in the performance of all professional activities in whatever capacity performed.

(2) Objectivity is a distinguishing feature of the accounting profession and is critical to maintaining the public's trust and confidence. It is a state of mind that imposes the obligation to be impartial and free of bias that may result from conflicts of interest or subordination of judgment. Objectivity requires a licensee, permit holder, or practice privilege holder to exercise an appropriate level of professional skepticism in carrying out all professional activities. Although a licensee, permit holder, or practice privilege holder may serve multiple interests in many different capacities, objectivity must be maintained. A licensee, permit holder, or practice privilege holder shall make a careful assessment of the effects on objectivity of all professional relationships and activities. A licensee, permit holder, or practice privilege holder shall maintain objectivity in the performance of all professional activities in whatever capacity performed.

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the references of practice privilege holder and the permit holder, as those license types have the same integrity and objectivity requirements as a certificate/license holder. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.706 COMPETENCE (1) A firm, ~~or permit holder, or practice privilege holder~~ shall not undertake any engagement for the performance of professional services, unless the following general standards are met:

(a) a firm, ~~or permit holder, or practice privilege holder~~ shall undertake only those engagements which the firm, ~~or permit holder, or practice privilege holder~~ can reasonably expect to complete with professional competence, including compliance where applicable, with ARM 24.201.718;

(b) a firm, ~~or permit holder, or practice privilege holder~~ shall adequately plan and supervise an engagement; and

(c) a firm, ~~or permit holder, or practice privilege holder~~ shall obtain sufficient relevant data to afford a reasonable basis for conclusions or recommendations in relation to an engagement.

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder, as that license type has the same competence requirements as a certificate/license or permit holder. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.707 DISCREDITABLE ACTS (1) A firm, permit holder, certificate holder, ~~or license holder, or practice privilege holder~~ shall not commit any act discreditable to the profession. A discreditable act will be considered to have occurred if, for example, a firm, ~~or permit holder, or practice privilege holder~~ retains any records rightfully belonging to the client in order to enforce payment of fees.

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when outlining the prohibition of performing discreditable acts in the practice of public accounting. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.708 DUE PROFESSIONAL CARE (1) Due care imposes upon the licensee, permit holder, or practice privilege holder the obligation to perform professional activities with concern for the best interest of those for whom the activities are performed and consistent with the profession's responsibility to the public. It is essential to preserving the public's trust and confidence. Due care requires the licensee, permit holder, or practice privilege holder to discharge professional responsibilities with reasonable care and diligence and to adequately plan and supervise all professional activities for which the licensee is responsible. A licensee, permit holder, or practice privilege holder shall act with due care in the performance of all professional activities in whatever capacity performed.

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the references of practice privilege holder and permit holder when stating due professional care responsibilities for those practicing public accounting. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.709 COMMISSIONS (1) A firm, ~~or~~ permit holder, or practice privilege holder shall not pay a commission to obtain a client, nor accept a commission for referring the products or services of others to a client. This prohibition applies during the period in which the firm, ~~or~~ permit holder, or practice privilege holder is engaged to perform any services requiring independence and the period covered by those services.

(2) A firm, ~~or~~ permit holder, or practice privilege holder who is not prohibited by this rule from performing services for or receiving a commission and who is paid or expects to be paid a commission shall disclose that fact in writing to any person or entity to whom the firm, ~~or~~ permit holder, or practice privilege holder recommends or refers a product or service to which the commission relates. Written acknowledgment of such disclosure shall be obtained.

(3) Any firm, ~~or~~ permit holder, or practice privilege holder who accepts a referral fee for recommending or referring any service of a firm or permit holder to any person or entity or who pays a referral fee to obtain a client shall disclose such acceptance or payment in writing to the client and obtain written acknowledgment of such disclosure.

(4) remains the same.

AUTH: 37-1-131, 37-50-203, MCA
IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how and when a commission may be collected or paid by a practitioner conducting public accounting. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.710 CONTINGENT FEES (1) A firm, ~~or~~ permit holder, or practice privilege holder shall not offer or perform professional services for a fee which is contingent upon the findings or results of such services, when the firm, ~~or~~ permit holder, or practice privilege holder also performs for that client any services for which professional standards require independence. This prohibition applies during the period in which the firm, ~~or~~ permit holder, or practice privilege holder is engaged to perform any services for which professional standards require independence and the period covered by those services.

(2) A firm, ~~or~~ permit holder, or practice privilege holder who is not prohibited by this rule from performing professional services for a contingent fee shall disclose that fact in writing to any person or entity to whom ~~the~~ services are to be provided. Written acknowledgment of such disclosure shall be obtained.

(3) A firm, ~~or~~ permit holder, or practice privilege holder shall not offer to prepare an original or amended tax return or claim for a tax refund for a contingent fee for any client.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how and when a commission may be collected or paid by a practitioner conducting public accounting. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.718 APPLICABLE STANDARDS (1) A licensee, ~~permit holder, or~~ practice privilege holder shall comply with the standards set forth in this rule as applicable under the circumstances and at the time of service when providing professional services. In addition to the applicable standards set forth below, a licensee, ~~permit holder, or~~ practice privilege holder shall comply with the standards issued by other professional or governmental bodies, including international standards setting bodies with which a licensee, ~~permit holder, or~~ practice privilege holder is required by law, regulation, or the terms of engagement to comply.

(2) The board incorporates by reference the following standards, as they exist as of July 1, ~~2007~~ 2010:

(a) through (c) remain the same.

(d) all of the standards for accounting, valuation, and review services issued by AICPA;

(e) through (3)(e) remain the same.

AUTH: 37-50-203, MCA

IMP: 2-4-307, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how and when a commission may be collected or paid by a practitioner conducting public accounting.

The new terminology is required to implement new legislation passed during the 2009 legislative session.

The board determined it is also reasonably necessary at this time, to update the adopted standards that must be followed, in order for practitioners to responsibly use the most up-to-date standards available. This amendment is being proposed now to update the edition of standards currently adopted by reference, and eliminate further administrative expense of noticing this update in another rule notice.

24.201.720 CONFIDENTIALITY (1) A licensee, permit holder, or practice privilege holder has an obligation to maintain the confidentiality of information obtained in the performance of all professional activities. Maintaining such confidentiality is vital to the proper performance of the licensee's, permit holder's, or practice privilege holder's professional activities. A licensee, permit holder, or practice privilege holder shall not use or disclose, or permit others within the licensee's, permit holder's, or practice privilege holder's control to use or disclose, any confidential client or employer information without the consent of the client or employer. This obligation of confidentiality continues after the termination of the relationship between the licensee, permit holder, or practice privilege holder and the client or employer and extends to information obtained by the licensee, permit holder, or practice privilege holder in professional relationships with prospective clients and employers.

(a) This rule must not be construed to prohibit a licensee, permit holder, or practice privilege holder from disclosing information as required to meet professional, regulatory, or other legal obligations.

(2) Members of the board and professional practice reviewers shall not disclose any confidential client information which comes to their attention from firms, or permit holders, or practice privilege holders in disciplinary proceedings or otherwise in carrying out their responsibilities, except that they may furnish such information to an investigative or disciplinary body requiring compliance with state law.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the references of a practice privilege holder when clarifying how and when confidentiality must be maintained. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.723 RECORDS (1) A firm, or permit holder, or practice privilege holder shall furnish to the client or former client, upon request made within a reasonable time after original issuance of the document in question:

(a) remains the same.

(b) a copy of any report or other document issued by the firm, or permit holder, or practice privilege holder to or for such client;

(c) any accounting or other records which the firm, or permit holder, or practice privilege holder obtained from or on behalf of the client which the firm, or

permit holder, or practice privilege holder removed from the client's premises or received for the client's account, but the firm, or permit holder, or practice privilege holder may make and retain copies of such documents when they form the basis for work done by the firm, or permit holder, or practice privilege holder; and

(d) a copy of the firm's, or permit holder's, or practice privilege holder's working papers, to the extent that such working papers include records which would ordinarily constitute part of the client's books and records and are not otherwise available to the client.

(2) remains the same.

(3) Retention by a firm, or permit holder, or practice privilege holder of ~~clients~~ client records after a demand is made for them is an act discreditable to the profession in violation of ARM 24.201.707.

(4) A firm's, or permit holder's, or practice privilege holder's working papers are the firm's, or permit holder's, or practice privilege holder's property and need not be surrendered to the client. Any working papers developed by the firm, or permit holder, or practice privilege holder incident to the performance of the engagement which do not result in changes in the client's records or are not in themselves part of the records ordinarily maintained by such clients, are considered to be solely "accountant's working papers" and are not the property of the client. If the firm, or permit holder, or practice privilege holder has retained file copies of a client's records already in possession of the client, the firm, or permit holder, or practice privilege holder is not required to return such copies to the client.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how records must be maintained. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.726 ADVERTISING (1) A firm, or permit holder, or practice privilege holder shall not use or participate in the use of any form of public communication referencing professional services which contains a false, fraudulent, misleading, deceptive, or unfair statement or claim including, but not limited to, a statement or claim which:

(a) through (e) remain the same.

(f) states or implies that the firm, or permit holder, or practice privilege holder has received formal recognition as a specialist in any aspect of the practice of public accountancy, if this is not the case;

(g) through (i) remain the same.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how and when

advertising must occur. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.1106 STATEMENT BY PERMIT HOLDERS AND FIRMS EXEMPT FROM REGISTRATION PURSUANT TO 37-50-335, MCA (1) through (4) remain the same.

(5) Every firm availing itself of the exemption from registration of 37-50-335, MCA, that has undergone a board-sanctioned compliance or peer review process in its principal place of business, must annually notify the board by letter or electronic communication of its continuing status as having received an acceptable, a pass, or a pass with deficiencies rating on financial services and having completed all required remediation.

AUTH: 37-50-203, MCA

IMP: 37-50-203, 37-50-325, 37-50-335, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holder when clarifying how and when an exempt firm must notify the board of its practice status, until all review requirements have been completed. The new terminology is required to implement new legislation passed during the 2009 legislative session.

24.201.1107 FILING OF REPORTS (1) remains the same.

(2) The board may require a permit holder to submit ~~workpapers~~ work papers prepared in support of the reports issued in (1)(a) and (b).

(3) and (4) remain the same.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to correct the reference work papers. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.1108 ALTERNATIVES AND EXEMPTIONS (1) remains the same.

(2) The board reserves the authority to request a practice unit to submit a copy of any or all reports, financial statements, and supporting ~~workpapers~~ work papers for engagements subject to peer review.

(3) remains the same.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to correct the reference work papers. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.1115 PROFESSION MONITORING PROGRAM (PMP) REVIEWS AND ENFORCEMENT (1) remains the same.

(2) Responses are required from those practice units whose reports are classified as not acceptable or from practice units that have submitted a peer review report that is other than ~~unmodified pass or pass with deficiencies~~. The board may also require a written comprehensive statement of future procedures to be followed that will ensure an improvement in the quality of future reports.

(3) For those practice units which are required to submit responses under (2), the board will consider the review of the practice unit in closed, executive session. The board may ~~require~~ recommend one or more of the following actions:

(a) remains the same.

(b) third-party review of ~~workpapers~~ work papers;

(c) third-party review of other reports and ~~workpapers~~ work papers;

(d) through (g) remain the same.

(4) The enforcement coordinator will monitor practice unit compliance with board recommendations set forth under (3) and ~~may~~ shall refer noncompliant practice units to the ~~screening panel~~ board for ~~appropriate~~ possible initiation of the disciplinary action process under subchapter 24.

AUTH: 37-1-319, 37-50-203, MCA

IMP: 37-1-312, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to incorporate the new language used by the America Institute of Certified Public Accountants (AICPA), and recognized throughout the profession, to describe peer review results. This amendment is being made now as this is a recent language change from the AICPA. It also eliminates further administrative expense to the board for correcting this reference in a separate rule notice.

The board determined it is reasonably necessary to correct the reference work papers. This amendment is being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

The board determined it is reasonably necessary to amend this rule to implement the new process for monitoring compliance or noncompliance with board recommendations received, as a result of an unsatisfactory professional monitoring program (PMP) review. This process has been revised to ensure board conduct is within its authority.

24.201.2101 RENEWALS (1) remains the same.

(2) All ~~certified public accountants and licensed public accountants~~ certificates, licenses, and permits to practice must be renewed on or before the date set by ARM 24.101.413.

(3) Renewal licenses, certificates, and permits to practice will be issued by the board to all certified public accountants, licensed public accountants, and permit holders ~~in good standing~~ eligible for renewal upon payment of the established license renewal fees, pursuant to ARM 24.201.410.

(4) remains the same.

AUTH: 37-1-131, 37-50-201, 37-50-203, MCA
IMP: 37-1-141, 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to eliminate confusion of references to the same type of license made several different ways, and to clarify that eligibility for renewal, which includes compliance with continuing education as the standard for renewal. These amendments are being proposed now to eliminate further administrative expense of correcting this reference in another rule notice.

24.201.2105 ADVISORY COMMITTEE (1) The board may ~~select~~ appoint an advisory committee on continuing education whose purpose will be to assist the board in implementing continuing education regulations. The committee shall be composed of not less than five holders of a Montana permit to practice, ~~each of whom shall be competent by reason of training or experience and will include CPAs and LPAs on the proportion of CPAs certified and LPAs licensed, who hold permits to practice but not less than one LPA.~~ The committee may:

(a) evaluate and recommend to the board either prospectively or retrospectively, ~~whether~~ specific courses, programs, education, or training which qualify as formal programs of learning which that contribute directly to the professional competency of an individual engaged in public accounting, and the credit to be granted ~~therefore thereto.~~ In considering qualifications, any Any course, program, education, of or training ~~not commensurate with~~ contributing to professional ~~status~~ competence will not qualify;

(b) ~~recommend to the board in individual cases whether professional knowledge and competency have been reestablished by virtue of the completion of such program;~~

~~(c) verify the continuing education records on a test or complete basis from time to time~~ selected for random audit or as deemed appropriate by the board; and

~~(d) (c)~~ perform any other duties as requested by the board as they relate to these regulations continuing education.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to better identify the process for creating this committee. The removal of the requirement to include one LPA is necessary, because the number of this license type is very limited, and it may not be feasible to find an LPA to serve on this committee. The amendments also will improve the language and grammar of the rule and streamline the language describing the committee. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2106 BASIC REQUIREMENT (1) ~~During the three-year period, ending the June 30th immediately preceding the permit year of January 1 through~~ Continuing education is accrued in a rolling three-year period that requires annual

reporting. The annual reporting year begins July 1 and ends June 30 of every year. Any rolling three-year accrual period ends on June 30, immediately preceding the annual permit renewal deadline of December 31, applicants Applicants for a permit to practice must complete 120 hours of acceptable continuing education credit in every three-year period, except as otherwise provided under 37-50-314, MCA, and as explained in ARM 24.201.2154 and 24.201.2155.

(2) remains the same.

(3) Applicants who have already met the full basic requirement by the end of any June 30th reporting period may elect to have excess continuing education hours, taken during the immediately preceding months of May and June, apply to the subsequent reporting period.

(4) Applicants who have not completed their full basic requirements by the end of any June 30th reporting period may elect to have qualified continuing education hours, taken during the immediately following months of July and August, apply to the previous reporting period.

(5) Course credit hours may be split in order to carry over or carry back eligible credit.

(6) The implementation date of the continuing education requirement is three years from June 30, following an individual's initial issuance of a permit to practice.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify the description of the three-year CPE reporting period and to strike the redundancy of using "full" and "basic," since the basic requirement is the "full" requirement. It is also clarifying how credits may be used when excess or incomplete hours are presented. The rule specifies when the CPE reporting period ends for newly permitted individuals. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2108 WHO MUST COMPLY - GENERAL (1) All persons who are issued a permit to practice must comply with the continuing education requirements, unless they have been excepted as provided by ARM 24.201.2112, or 24.201.2154, or 24.201.2155.

(2) Any individual who qualifies for the practice privilege in this state and who complies with the CPE requirements applicable in the jurisdiction of his or her principal place of business shall be deemed to have complied with the CPE requirements of this state.

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

REASON: The board determined it is reasonably necessary to amend this rule to clarify that extending recognition of out-of-state education will meet Montana requirements for those practicing under the practice privilege. These amendments

are required to implement new legislation passed during the 2009 legislative session.

24.201.2113 NONRESIDENT HOLDERS OF A PERMIT TO PRACTICE - COMPLIANCE (1) Holders of regular Montana permits to practice (as opposed to a special practice permit) who are out-of-state residents are required to comply with the continuing education requirements if they wish to maintain their permits to practice public accounting in Montana.

~~(2) A holder of a special practice permit is subject to the provisions of ARM 24.201.2112.~~

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

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

REASON: The board determined it is reasonably necessary to amend this rule to delete references to special practice permits that were repealed by the 2009 Legislature.

24.201.2114 OUT-OF-STATE APPLICANTS SEEKING A MONTANA PERMIT TO PRACTICE - CONTINUING EDUCATION REQUIREMENT

(1) An individual, who holds a valid and unrevoked certified public accountant certificate or public accountant license issued by any ~~other state or political subdivision of the United States~~ jurisdiction, and who makes application under the appropriate provisions of the statutes for a certificate or license in this state, and who receives a certificate or license from this state, shall be required to comply with the ~~full~~ basic requirement before being issued a permit to practice in this state. Compliance will be reported on a form provided by the board.

(2) If the individual holds a valid and unrevoked permit to practice public accounting, if one is issued by such other jurisdiction, or was otherwise allowed to practice public accounting in such other jurisdiction, and cannot meet the ~~full~~ basic requirement at the time of application for a permit to practice, the individual must request that the public accounting regulatory entity of such other jurisdiction submit in writing, directly to the board, verification that the individual was allowed to practice public accounting in that other jurisdiction. Upon acceptance of the verification by the board, the individual will be issued a permit to practice until the permit year following the June 30 following the individual's application. The individual must complete the ~~full~~ basic requirement by the June 30 following their application.

(3) Except that such individual's basic continuing education requirements for purposes of this rule shall be no greater than if the individual's initial registration in such other jurisdiction was made in this state as explained in ARM ~~8.54.808~~ 24.201.2106.

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

IMP: 37-1-306, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to broaden the recognition to those individuals holding a CPA or LPA designation from

any jurisdiction, not just a state or U.S. political subdivision, and that those who obtain a Montana CPA or LPA must meet Montana CPE requirements. This amendment also corrects outdated references within board rules. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2120 STATEMENT ON STANDARDS FOR FORMAL CONTINUING EDUCATION PROGRAMS, PROGRAMS WHICH QUALIFY, AND ACCEPTABLE SUBJECT MATTER AND PROGRAMS (1) ~~To help ensure that practitioners receive quality continuing professional education, appropriate standards are needed. With appropriate standards, programs are less likely to vary in quality of development and presentation and in measurement and reporting of credits~~ To protect the public and to ensure that practitioners participate in learning activities that maintain or increase their professional competence, the board has adopted standards for continuing education that establish a framework for the development, presentation, measurement, and reporting of continuing education programs to ensure that accounting professionals receive the quality continuing education necessary to satisfy their professional obligation to serve the public interest.

(2) ~~Moreover, the large number of programs available throughout the United States, the varying backgrounds of credentials of sponsoring organizations, and the mobility of participants in these programs create measuring and reporting problems that suggest the need for nationally uniform standards. The purpose of this statement is to provide such uniform criteria~~ A program qualifies as acceptable continuing education if it is a formal group or self-study program of learning which contributes directly to the professional competence of an individual permitted to practice public accounting, and such program meets the minimum standards of quality of development, presentation, measurement, and reporting of credits set forth in the Statement of Standards for Continuing Professional Education (CPE) programs issued jointly by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA) on January 19, 2001, or such other educational standards as may be established from time to time by the board.

(3) ~~Throughout these rules the term "programs" refers to both formal group and formal self-study programs. A group program is an educational process designed to permit a participant to learn a given subject through interaction with an instructor and other participants. When a group program complies with the standards in these rules it becomes a "formal" group program. All other group programs are informal. A self-study program is an educational process designed to permit a participant to learn a given subject without major interaction with an instructor. For a self-study program to be "formal":~~ The following general subject matters are acceptable provided they contribute to the basic professional knowledge and competence of the individual and meet the minimum standards of quality or development and presentation and of measurement and reporting of credits set forth in the Statement of Standards for Continuing Professional Education (CPE) programs issued jointly by the AICPA and NASBA:

(a) ~~the sponsor of it must provide a certificate upon evidence of satisfactory completion, such as a completed workbook or examination, and accounting and auditing;~~

(b) ~~it must comply with the standards in these rules. "Sponsors" are the organizations responsible for presenting programs and are not necessarily program developers. However, it is their responsibility to see that their programs comply with all the standards of these rules. (ARM 24.201.2121 through 24.201.2124) taxation;~~

(c) management;

(d) computer science;

(e) communication arts;

(f) mathematics, statistics, probability, and quantitative application in business;

(g) economics;

(h) business law;

(i) functional fields of business: finance, production, marketing, personnel relations, business management, and organization;

(j) specialized areas of industry (e.g., film industry, real estate, farming, etc.);

(k) administrative practice (e.g., engagement letters, personnel, etc.);

(l) consulting services;

(m) ethics;

(n) personal development; and

(o) areas other than those listed above may be acceptable if the individual can demonstrate that they contribute to their professional competence. The responsibility for substantiating that a particular program is acceptable and meets the requirements rests solely upon the individual.

(4) The following group programs qualify for credit provided they meet the standards adopted in (2) and (3):

(a) professional education and development of programs of national, state, and local accounting organizations;

(b) technical sessions at meetings of national, state, and local accounting organizations and their chapters;

(c) university or college courses (both credit and noncredit courses);

(d) formal in-firm education programs;

(e) programs of other organizations (accounting, industrial, professional, etc.);

(f) committee meetings of professional societies which are structured as formal educational programs;

(g) dinner, luncheon, and breakfast meetings which are structured as formal educational programs; and

(h) firm meetings for staff and/or management groups which are structured as formal educational programs. Portions of such meetings devoted to the communication and application of general professional policy or procedure may qualify. However, portions devoted to firm administrative, financial, and operating matters generally would not qualify.

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

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

REASON: The board determined it is reasonably necessary to amend this rule to clarify what educational programs qualify for meeting the continuing education requirements. The existing language is cumbersome and outdated and difficult for practitioners to understand. The new language is attempting to simplify the expectations in meeting the required continuing education. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2121 STANDARDS FOR CPE PROGRAM DEVELOPMENT - PRESENTATION AND MEASUREMENT (1) ~~The program should contribute to the professional competence of participants~~ The board adopts and incorporates by reference the Statement on Standards for Continuing Professional Education (CPE) program, as issued jointly by the American Institute of Certified Public Accountants (AICPA) and the National Association of State Boards of Accountancy (NASBA) on January 19, 2001, or such other education standards as may be established from time to time by the board.

~~(a) The fundamental purpose of continuing education is to increase the practitioners professional competence. A professional person is one characterized as conforming to the technical and ethical standards of his profession. This characterization reflects the expectation that a person holding himself out to perform services of a professional quality needs to be knowledgeable within a broad range of related skills. Thus, the concept of professional competence is to be broadly interpreted. It includes, but is not restricted to, accounting, auditing, taxation, and management advisory services. Accordingly, programs contributing to the development and maintenance of other professional skills also should be recognized as acceptable continuing education programs. Such programs might include, but not be restricted to the areas of communication, ethics, quantitative methods, behavioral sciences, statistics, and practice management.~~

~~(2) The stated program objectives should specify the level of the knowledge the participant should have attained or the level of competency he should be able to demonstrate upon completing the program. The standards incorporated by reference are available at the professional resources or publication offices at the respective web site:~~

~~(a) Program developers should clearly disclose what level of knowledge and/or skill is expected to be imparted under a particular program. Such levels may be expressed in a variety of ways, all of which should be informative to potential participants. As an illustration, a program may be described as having the objective of imparting technical knowledge at such levels as basic, intermediate, advanced, or overview, which might be defined as follows: www.aicpa.org; and~~

~~(i) A basic level program teaches fundamental principles or skills to participants having no prior exposure to the subject area;~~

~~(ii) An intermediate level program builds on a basic level program in order to relate fundamental principles or skills to practical situations and extend them to a broader range of applications.~~

~~(iii) An advanced level program teaches participants to deal with complex situations.~~

~~(iv) An overview program enables participants to develop a perspective as to how a subject area relates to the broader aspects of accounting or brings participants up to date on new developments in the subject area.~~

~~(b) www.nasba.org.~~

~~(3) The education and/or experience prerequisites for the program should be stated.~~

~~(a) All programs should clearly identify what prerequisites are necessary for enrollment. If no prerequisite is necessary, a statement to this effect should be made. Prerequisites should be specified in precise language so potential participants can readily ascertain whether they qualify for the program or whether the program is above or below their level of knowledge or skill.~~

~~(4) Programs should be developed by individual(s) qualified in the subject matter and in instructional design.~~

~~(a) This standard is not intended to require that any individual program developer be both technically competent and competent in instructional design. Its purpose is to ensure that both types of competency are represented in a program's development, whether one or more persons are involved in that development. Mastery of the technical knowledge or skill in instructional design may be demonstrated by appropriate experience or educational credentials.~~

~~(b) "Instructional design" is a teaching plan that considers the organization and interaction of the materials as well as the method of presentation such as lecture, seminar, workshop, or programmed instruction.~~

~~(5) Program content should be current.~~

~~(a) The program developer must review the course materials periodically to assure that they are accurate and consistent with currently accepted standards relating to the program's subject matter. Between these reviews, errata sheets should be issued where appropriate and obsolete materials should be deleted. However, between the time a new pronouncement is issued and the issuance of errata sheets or removal of obsolete materials, the instructor is responsible for informing the participants of changes. If, for example, a new accounting standard is issued, a program will not be considered current unless the ramifications of the new standard have been incorporated into the materials or the instructor appropriately informs the participants of the new standard.~~

~~(6) Programs should be reviewed by a qualified person(s) other than the preparer(s) to ensure compliance with the above standards.~~

~~(a) In order to ensure that programs meets the standard for program development, they should be reviewed by one or more individuals in the subject area and in the instructional design. Any one reviewer need not be competent in both the program subject matter and in instructional design, but both aspects of a program should be reviewed. However, it may be impractical to review certain programs, such as a short lecture given only once; in these cases, more reliance must be placed on the competence of the presenter.~~

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

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

REASON: The board determined it is reasonably necessary to amend this rule to clarify what type of educational program development qualifies for meeting the continuing education requirements. The existing language is cumbersome and outdated and difficult for practitioners to understand. The new language is attempting to simplify the expectations in meeting the required continuing education. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2124 STANDARDS FOR CPE REPORTING (1) Participants in group or self-study programs should must document their participation including:

- (a) participant's name;
- ~~(a)~~ (b) sponsor;
- ~~(b)~~ (c) course title and/or description of content;
- ~~(c)~~ (d) date(s);
- ~~(d)~~ (e) location; and
- ~~(e)~~ (f) number of contact continuing education credit hours granted.

Documentation should must be retained for an appropriate period not less than five years.

~~(f) This standard is designed to encourage participants to document their attendance at a group program or participation in a self-study program. State laws or regulations may dictate the length of time to retain documentation. In the absence of legal specifications, a reasonable policy would be to retain documentation for five years from the date the program is completed. For self-study programs evidence of completion would normally be the certificate supplied by the sponsor.~~

~~(2) In order to support the reports that may be required of participants, the~~ The sponsor of group or self-study programs should retain evidence of an individual's participation in a group or self-study program for an appropriate period not less than five years:

- (a) participant's name;
- ~~(a)~~ (b) record of participation;
- ~~(b)~~ (c) outline of the course (or equivalent);
- ~~(c)~~ (d) date(s);
- ~~(d)~~ (e) location;
- ~~(e)~~ (f) instructor(s); and
- ~~(f)~~ (g) number of contact hours.

~~(g) Because participants may come from any state or jurisdiction, the appropriate time for the sponsor to retain this information is not dependent solely on the location of the program or sponsor. To satisfy the detailed requirements of all jurisdictions, a retention period of five years from the date the program is completed is appropriate. The record of attendance should reflect the contact hours earned by each participant, including those who arrive late or leave early.~~

(3) For courses taken for academic credit in universities and colleges, evidence of satisfactory completion of the course and receipt of academic credit will be sufficient; for noncredit courses, a statement of the hours of attendance, signed by the instructor, must be obtained by the individual.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify documentation and retention requirements for course participants and course sponsors of CPE and to carve out requirements for courses attended for academic credit. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2136 CREDIT HOURS GRANTED - ~~GENERAL~~ GROUP STUDY PROGRAMS (1) Continuing education credit will be given with a minimum of 50 minutes constituting one hour. One-half continuing education credit increments (equal to a minimum of 25 minutes) are permitted after the first credit has been earned in a given learning activity. For university or college courses, each semester unit of credit shall equal 15 hours toward the requirement. A quarter unit of credit shall equal ~~40~~ ten hours.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA
IMP: 37-1-306, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend the title of this rule to clarify the content of the rule. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2137 CREDIT FOR FORMAL ~~INDIVIDUAL~~ SELF-STUDY PROGRAMS

(1) ~~Formal self-study programs shall be pretested by the developer to determine average completion time.~~

(a) Interactive self-study programs shall receive continuing education credit equal to the average completion time, if the sponsor is recognized and approved by NASBA's CPE quality assurance service (referred to as a NASBA QAS sponsor) or NASBA's national registry of CPE sponsors (referred to as a NASBA registry sponsor). An interactive self-study program is designed to use interactive learning methodologies that simulate a classroom learning process that provides significant ongoing, interactive feedback to the participant regarding the participant's learning progress.

(b) remains the same but is renumbered (a).

(2) Individuals claiming credit for such ~~correspondence or formal individual self-study~~ courses are required to obtain evidence of satisfactory completion of the course from the program sponsor. ~~Credit is allowed in the period in which the course is completed, except as allowed in ARM 24.201.2106.~~

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA
IMP: 37-1-306, 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend this rule to eliminate redundant language. The pretest requirement for self-study program providers is referenced in ARM 24.201.2121. The study programs completion times are determined though an average completion time, rather than time studies. The amendment also clarifies the type of self-study courses that qualify for credit and the amount allowed for such credit. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2138 CREDIT FOR SERVICE AS LECTURER, DISCUSSION LEADER, SPEAKER, OR REPORT REVIEWERS (1) Instructors, discussion leaders, and speakers may claim continuing education credit for both preparation and presentation time to the extent the activities maintain or increase their professional competence and qualify for continuing education credit for participants. Credit may be claimed for actual preparation time up to two times the class ~~contact~~ credit hours for the first time the class is presented. ~~Credit as an instructor, discussion leader, or speaker may be claimed provided that the session is one which would meet the continuing education requirements of those attending.~~ The maximum credit for such preparation and teaching shall not exceed 50 percent of the ~~full~~ basic period requirement.

(2) Continuing education credit may be claimed for serving as a report reviewer under the board's ~~positive enforcement~~ profession monitoring program established in ARM ~~8.54.704~~ 24.201.1101 and following, or under other structured report review programs approved by the board. One hour of credit shall be granted for every ~~two hours~~ hour spent reviewing reports. The maximum credit for such reviews shall be no more than ~~eight~~ 16 hours in any given fiscal year reporting period. Such credits shall qualify towards the requirement related to reporting on financial statements in ARM 24.201.2106(2).

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that credit can only be claimed if the preparation and presentation maintains or advances the professional knowledge of the practitioner. The amendments are intended to clarify and eliminate confusion expressed by a number of practitioners when attempting to determine available credit through presentations. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

The board determined it is reasonably necessary to amend this section to correct the reference of the board's profession monitor program, update the outdated rule citation from when the board was under the Department of Commerce, and increase the number of credits allowed for those that participate as a reviewer with the board's profession monitor program. The increase is intended to recognize the complexity and interactive nature of reviewing reports by allowing hour-for-hour credit. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2139 CREDIT FOR PUBLISHED ARTICLES, BOOKS, ETC.

(1) Credit may be claimed for published articles and books provided they contribute to the professional competence of the individual. The amount of credit so awarded will be determined by the board on a case-by-case basis. ~~Credit may be allowed for published articles and books provided they contribute to the professional competence of the individual.~~ Credit for preparation of such publications may be claimed on a self-declaration basis ~~up to~~ not to exceed 25 percent of the full basic period requirement. ~~In ,unless~~ exceptional circumstances an article(s) or book(s) may be provided to the board with an explanation of the circumstances which would justify a greater credit.

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

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

REASON: The board determined it is reasonably necessary to amend this rule to add clarity to the requirements for a practitioner to claim CPE credit for published articles or books. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2145 REPORTING REQUIREMENTS (1) On or before the July 31 after the end of the three-year reporting period, permit holders shall ~~give evidence to the board that their continuing education requirements have been met for the reporting period ending June 30 prior thereto~~ have reported credit hours to the board indicating that they have met the requirements for that reporting period.

(2) Persons who use the two-month carry-back provision of ARM ~~24.201.2106(5)~~ 24.201.2106(4) shall file their reporting forms by July 31, listing the course(s) they are planning to attend or complete. If the course(s) listed are not completed, they must notify the board office in writing immediately, ~~but not no~~ later than August 31. Such notification(s) shall explain why the course(s) were not completed and provide a plan to meet the continuing education requirements.

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

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

REASON: The board determined it is reasonably necessary to amend this rule to clarify the reporting period requirement. The current rule language has been a source of confusion for licensees. The amendment is also intended to correct a rule reference and grammatically correct the sentence structure. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2146 CONTINUING EDUCATION REPORTING FOR PERMIT TO PRACTICE (1) Applicants for a permit to practice must provide a signed statement on ~~forms~~ a form prescribed by the board of that lists the continuing education programs in which they ~~claim to be acceptable~~ have participated, showing:

(a) sponsoring organization;:

- (b) location of program;₁
- (c) title of program or description of content;₁
- (d) dates attended;₁ and
- (e) credit hours claimed.

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

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

REASON: The board determined it is reasonably necessary to amend this rule to clarify how CPE must be reported. This amendment is attempting to clean up ambiguous wording and notify permit holders of their responsibility to accurately report CPE. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2148 VERIFICATION (1) The board will verify ~~on a test or complete basis,~~ continuing education information submitted by individuals by random audit.

(2) If an application for ~~permit to practice~~ is not approved, the ~~applicant individual~~ will be so notified in writing and may be granted a period of time by the board₁ in which to correct the deficiencies noted. The board will audit the CPE reporting form and supporting documentation to verify completion of the basic requirement.

(3) If specific CPE is recommended as a result of the profession monitoring program reviews, the board will audit the CPE supporting documentation to verify completion of the appropriate subject matter and number of credit hours.

(4) Out-of-state applicants licensed in another jurisdiction applying for a permit to practice in this state must submit a CPE reporting form documenting compliance with CPE requirements with their application. The board may verify or audit CPE submitted by out-of-state applicants on a case-by-case basis.

(5) Applicants seeking reactivation or reinstatement of a permit to practice must submit a CPE reporting form and supporting documentation to be verified by the board. The CPE requirements of ARM 24.201.2106, may be met in the three years immediately preceding the application for reactivation or reinstatement.

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

IMP: 37-1-131, 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify CPE verification requirements and the random CPE audit provision of 37-1-131, MCA. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2154 EXTENSION OR HARDSHIP EXCEPTION (1) The board has authority to ~~make~~ grant an extension of time in order to complete the basic requirement or to grant a written hardship exception which must be reviewed and reapproved, if applicable, each year for a specific period of time, for reasons of individual hardship including health, military service, or inaccessibility to programs ~~or interference with an interstate practice.~~

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify how and for what reason an extension or hardship exception may be granted. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

The board determined it is reasonably necessary to amend this rule to eliminate language referring to interstate practice pursuant to legislation passed in the 2009 Legislature.

24.201.2161 REINSTATEMENT (1) An individual formerly the holder of a permit who wishes to apply for reinstatement of the permit must first satisfy the provisions of ARM 24.201.2106 in the three years immediately preceding application for permit reinstatement. Supporting documentation verifying the completion of CPE must be submitted to the board with the petition for reinstatement.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, 37-50-322, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that in order to reinstate a permit to practice, a practitioner must first meet the basic CPE requirement within the past three years and documentation of meeting that requirement must be submitted at the time of the petition for reinstatement. This is currently required of a practitioner filing a petition for reinstatement and this amendment would support the current practice. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2401 ANONYMOUS COMPLAINTS (1) The board shall review anonymous complaints to determine whether appropriate investigative or disciplinary action may be pursued, or whether the matter ~~may~~ must be dismissed for lack of sufficient information.

AUTH: 37-50-203, MCA
IMP: 37-1-307, 37-1-308, MCA

REASON: The board determined it is reasonably necessary to amend this rule to clarify that if a complaint lacks sufficient information the board is obligated to dismiss it and the action is not discretionary. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2410 ENFORCEMENT AGAINST LICENSEES AND PRACTICE PRIVILEGE HOLDERS (1) through (1)(b) remain the same.

- (c) performance of any fraudulent act while holding a certificate, license, or permit, or practice privilege issued or extended under Title 37, chapter 50, MCA;
- (d) failure to meet the continuing education requirements established by the board; or
- (e) failure to respond to correspondence from the board, or to comply with orders of the board; or
- (f) failure of any individual using the practice privilege in Montana to qualify for such practice privilege;
- (g) failure of any individual using the practice privilege in Montana to notify this board of any suspension, revocation, termination, or discipline of the license in any jurisdiction in which the individual practices; or
- (h) failure of a Montana licensee who is using the practice privilege in another jurisdiction to cooperate with another jurisdiction's board of accountancy's investigation into acts of the licensees in that other jurisdiction.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-50-203, MCA
IMP: 37-1-136, 37-1-316, 37-1-319, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to amend this rule to include the reference of practice privilege holders when outlining who the board may impose disciplinary action against. The amendment further outlines failures for those practitioners practicing under the practice privilege that could result in imposition of disciplinary action. The new terminology is required to implement new legislation passed during the 2009 legislative session.

4. The proposed new rule provides as follows:

NEW RULE I EXERCISE OF PRACTICE PRIVILEGE IN OTHER JURISDICTIONS (1) Any licensee of this board offering or rendering services in or to another jurisdiction pursuant to practice privilege, based upon their license from this board, is deemed to have consented to the administrative jurisdiction of the other board of accountancy.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-1-307, 37-1-308, 37-50-325, MCA

REASON: The board determined it is reasonably necessary to adopt this rule to put Montana licensees practicing public accounting in another jurisdiction under the practice privilege, on notice that they, by the action of practicing under the practice privilege, have agreed to recognize the jurisdiction of the other board of accountancy over their Montana license. This adoption is required to implement new legislation passed during the 2009 legislative session.

5. The rules proposed to be repealed are as follows:

24.201.1111 PROFESSION MONITORING OF HOLDERS OF A SPECIAL PRACTICE PERMIT found at ARM Page 24-22683.

AUTH: 37-50-203, 37-50-323, MCA
IMP: 37-1-306, 37-50-203, 37-50-323, 37-50-324, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because the 2009 Legislature repealed special practice permits.

24.201.2112 COMPLIANCE WITH CONTINUING EDUCATION FOR NONRESIDENTS found at ARM page 24-22875.

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

REASON: The board determined it is reasonably necessary to repeal this rule because the 2009 Legislature repealed special practice permits.

24.201.2122 STANDARDS FOR CPE PROGRAM PRESENTATION found at ARM page 24-22887.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because the new standards for CPE that the board is adopting in amended rules 24.201.2120 and 2121 obviate this rule. This repeal is being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2123 STANDARDS FOR CPE PROGRAM MEASUREMENT found at ARM page 24-22889.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board is repealing this rule because the new standards for CPE that the board is adopting in amended ARM 24.201.2120 and 2121 obviate this rule. This repeal is being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2130 PROGRAMS WHICH QUALIFY found at ARM page 24-22895.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because the substance of it is now contained in ARM 24.201.2120(2). This repeal is

being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2131 ACCEPTABLE SUBJECT MATTER FOR QUALIFYING PROGRAMS found at ARM page 24-22896.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because the substance of it is now contained in ARM 24.201.2120(3). This repeal is being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2132 ACCEPTABLE PROGRAMS found at ARM page 24-22897.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board determined it is reasonably necessary to repeal this rule because the substance of it is now contained in ARM 24.201.2120(4). This repeal is being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2147 EVIDENCE OF COMPLETION - RETENTION found at ARM page 24-22908.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board is repealing this rule because the substance of it is now presented in ARM 24.201.2124. These amendments are being proposed now to eliminate further administrative expense of noticing the changes in another rule notice.

24.201.2155 OTHER EXCEPTIONS found at ARM page 24-22915.

AUTH: 37-50-201, 37-50-203, MCA
IMP: 37-50-203, 37-50-314, MCA

REASON: The board is repealing this rule because a board's ability to discipline a license holder by requiring continuing education, in excess of the annual requirement, is already provided for in 37-1-312, MCA.

6. 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 Public Accountants, 301 South Park Avenue, P.O. Box

200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2323, or by e-mail to dlibsdpac@mt.gov, and must be received no later than 5:00 p.m., September 27, 2010.

7. 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.publicaccountant.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.

8. 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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2323, e-mailed to dlibsdpac@mt.gov, or made by completing a request form at any rules hearing held by the agency.

9. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsor was contacted on August 7, 2009, by electronic mail.

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

BOARD OF PUBLIC ACCOUNTANTS
MICHAEL JOHNS, CPA, CHAIRPERSON

/s/ MARK CADWALLADER
Mark Cadwallader
Alternate Rule Reviewer

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State August 16, 2010