

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

In the matter of the amendment of)	NOTICE OF AMENDMENT AND
ARM 24.201.501 education)	REPEAL
requirements, 24.201.528 out-of-state)	
applicants, 24.201.537 retired status,)	
24.201.1108 profession monitoring,)	
24.201.2106, 24.201.2108,)	
24.201.2114, 24.201.2120,)	
24.201.2121, and 24.201.2124,)	
24.201.2136, 24.201.2137,)	
24.201.2138, and 24.201.2139,)	
24.201.2145, 24.201.2148, and)	
24.201.2154 renewal and continuing)	
education, and the repeal of ARM)	
24.201.2105 advisory committee,)	
24.201.2146 continuing education)	
reporting for permit to practice, and)	
24.201.2161 reinstatement)	

TO: All Concerned Persons

1. On March 22, 2012, the Board of Public Accountants (board) published MAR notice no. 24-201-45 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 543 of the 2012 Montana Administrative Register, issue no. 6.

2. On April 16, 2012, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the April 24, 2012, deadline.

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

COMMENT 1: One commenter challenged the timing of the board's rulemaking notice during the busy tax season.

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

COMMENT 2: One commenter supported all aspects of the proposed rule changes.

RESPONSE 2: The board appreciates all comments made during the rulemaking process.

ARM 24.201.501 Education Requirements

COMMENT 3: One commenter stated that removing the language on upper division courses from (3)(a) may unintentionally allow an individual who might be changing careers to take all of the required 24 credits in a college of technology or other two-year institution, thus reducing upper level courses to courses that are merely above the introductory level. The commenter suggested language for the board to further amend the rule and clarify that this is not acceptable.

The commenter questioned the change in (3)(b) from "business-related" courses to "nonaccounting general business" courses, arguing that economic and ethics might not qualify after this change.

The commenter also opposed the deletion of (4)(a)(i) regarding an accounting concentration or equivalent, and suggested the board use "with a major, option, certificate, or comprehensive concentration in accounting as evidenced by a cohesive group of coursework in accounting."

RESPONSE 3: After careful consideration of the comments, the board agrees that the suggested language for (3)(a) adds clarity to the educational requirements. The board is therefore amending (3)(a) to specify that at least 24 semester hours (36 quarter hours) of accounting courses must be taken from a four-year institution and above the introductory level.

The board carefully considered the comments regarding (3)(b) and (4)(a)(i), but is amending these subsections exactly as proposed.

ARM 24.201.1108 Alternatives and Exemptions

COMMENT 4: One commenter addressed the board's proposed peer review regulations and asked that the board consider alternatives to having a firm that receives a peer review report with a rating of "fail" to participate in the Profession Monitoring Program (PMP). The commenter explained the process by which corrective action is taken under the American Institute of CPA's (AICPA) standards and why participation in the PMP would not be necessary. The commenter also suggested that practice units be required to participate in the "facilitated state board access (FSBA) process," a web site that allows board access to submitted materials within a proposed timeframe. The commenter provided extensive draft language for the board's review and consideration.

RESPONSE 4: After consideration of the commenter's suggested language, the board concluded that a practice unit that receives a peer review report with a rating of "fail" should fall under the PMP. The board determined that such a practice unit would benefit from enrollment in PMP, even if the commenter considers it a duplication of review, and that it is necessary to protect the Montana public. The board is amending this rule exactly as proposed.

ARM 24.201.2106 Basic Requirement

COMMENT 5: Five commenters opposed the elimination of carry-forward and carry-back provisions for continuing education, arguing that the timing of income tax updates usually occurs in November and December, and needs to be carried over to January and February. Additionally, carry-forward and carry-back provides flexibility for "life events."

One commenter suggested that changing to a calendar year from the June 30 reporting date would cause some licensees to be noncompliant and they would need the carry-forward and carry-back provisions in order to remain compliant, until they get used to the new reporting period. One commenter supported mid-year reporting, because it is not burdensome for accountants to keep track of their continuing education on a non-calendar schedule. This commenter suggested that a 2012 effective date was retroactive and that a 2013 effective date would be more equitable.

RESPONSE 5: The board carefully considered the comments opposing the elimination of carry-forward and carry-back and regarding the 2012 effective date. The board notes that, in fact, an extra six months is being added to the rolling three-year period by having the fiscal year date advance to the end of the calendar year. The board considers this additional time to be sufficient for licensees to acquaint themselves with the amendment and to comply.

Additionally, the board concluded that carry-back and carry-forward would require additional audits of continuing education to ensure that licensees were not using courses taken in one calendar year to satisfy the next or previous calendar year. The department does not have the ability to track the carry-back and carry-forward courses without time-consuming and labor-intensive manual audits. The board is amending this rule exactly as proposed.

ARM 24.201.2138 Credit for Service as a Lecturer, Instructor, Speaker, or Report Reviewer

COMMENT 6: One commenter supported the proposed changes to the CPE rules, including the reporting of and compliance with the rules, and the elimination of carry-forward and carry-back provisions, but took exception to the calculation of credit for serving as an instructor of accounting courses. The commenter noted that tax and accounting laws, auditing standards and technologies, etc., change and require continuous updating of course materials. The commenter suggested language to allow credit for preparing or updating a course every three years.

RESPONSE 6: The board carefully considered the commenter's suggested language and agreed that the intent of the suggested language was appropriate. The board is amending the rule as suggested, with minor clarification regarding the rolling three-year period.

4. The board has amended ARM 24.201.528, 24.201.537, 24.201.1108, 24.201.2106, 24.201.2108, 24.201.2114, 24.201.2120, 24.201.2121, 24.201.2124, 24.201.2136, 24.201.2137, 24.201.2139, 24.201.2145, 24.201.2148, and 24.201.2154 exactly as proposed.

5. The board has repealed ARM 24.201.2105, 24.201.2146, and 24.201.2161 exactly as proposed.

6. The board has amended ARM 24.201.501 and 24.201.2138 with the following changes, stricken matter interlined, new matter underlined:

24.201.501 EDUCATION REQUIREMENTS (1) through (3) remain as proposed.

(a) at least 24 semester hours (36 quarter hours) of accounting courses taken from a four-year institution and above the introductory level, to include one course in each of the following:

(a)(i) through (9) remain as proposed.

24.201.2138 CREDIT FOR SERVICE AS LECTURER, INSTRUCTOR, SPEAKER, OR REPORT REVIEWER (1) Lecturers, instructors, 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 credit hours ~~for the first time the class is presented~~ once in any rolling three-year period. The maximum credit for such preparation and teaching shall not exceed 50 percent (or 60 hours) of the basic requirement in any rolling three-year period.

(2) remains as proposed.

BOARD OF PUBLIC ACCOUNTANTS
JACK MEYER, 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 July 2, 2012