

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

In the matter of the amendment of ) NOTICE OF AMENDMENT,  
ARM 24.101.413 renewal dates and ) ADOPTION, AND REPEAL  
requirements, 24.201.202 public )  
participation, 24.201.301 definitions, )  
24.201.401 board meetings, )  
24.201.410 fee schedule, 24.201.415 )  
use of CPA/LPA designation, )  
24.201.501, 24.201.502, 24.201.510, )  
24.201.516, 24.201.517, 24.201.524, )  
24.201.528, 24.201.529, 24.201.531, )  
24.201.535, and 24.201.537 licensing )  
and examinations, 24.201.704, )  
24.201.705, 24.201.707 acts, )  
24.201.708, 24.201.718, and )  
24.201.720 professional conduct )  
rules, 24.201.1103 peer review )  
enrollment, 24.201.1108 alternatives )  
and exemptions, 24.201.2101, )  
24.201.2106, 24.201.2114, )  
24.201.2120, 24.201.2124, )  
24.201.2136, 24.201.2137, )  
24.201.2138, 24.201.2145, )  
24.201.2148, and 24.201.2154 )  
renewal and continuing education, )  
24.201.2401 anonymous complaints, )  
24.201.2402 exercise of practice )  
privilege, 24.201.2410 enforcement )  
against licensees, the adoption of )  
NEW RULE I applicant by exam, and )  
the repeal of 24.201.518 examination )  
credits, 24.201.536 requirements for )  
previously held certificates, )  
24.201.2108 who must comply, )  
24.201.2113 nonresident holders, )  
24.201.2121 standards for CPE )  
program development, and )  
24.201.2411 enforcement procedures )

TO: All Concerned Persons

1. On August 7, 2014, the Department of Labor and Industry (department) and the Board of Public Accountants (board) published MAR Notice No. 24-201-47 regarding the public hearing on the proposed amendment, adoption, and repeal of

the above-stated rules, at page 1734 of the 2014 Montana Administrative Register, Issue No. 15.

2. On August 28, 2014, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the September 5, 2014, 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 opposed the amendment to ARM 24.201.202, stating that public participation should be allowed when the board considers granting or denying licenses for which a hearing is required.

RESPONSE 1: The board is required to follow the rules of civil procedure when considering any contested case matter, including licensing decisions, and is amending the rule exactly as proposed.

COMMENT 2: One commenter expressed concern that definitions are being eliminated from ARM 24.201.301, because the definitions are also in statute. The commenter asserted that it is reasonable to include those definitions in the rules too, as the terms are used throughout board rules.

RESPONSE 2: The Montana Administrative Procedure Act governs administrative rulemaking by executive branch agencies and prohibits the unnecessary repetition of statutory language in rule. The board is eliminating duplicated definitions from rule as proposed.

COMMENT 3: One commenter indicated that in ARM 24.201.301(32), "System review report with a rating of 'Failed'" is an incorrect reference. The correct definition should be "System review report with a rating of 'Fail.'"

RESPONSE 3: The board agrees with the commenter and is amending the rule to reflect the proper reference.

COMMENT 4: One commenter stated the phrase "who is not otherwise in the practice of public accounting" in ARM 24.201.415(1) unnecessarily complicates the rule and should be eliminated.

RESPONSE 4: The board concluded that deleting the language broadens the rule and could unintentionally include those offering financial services outside the practice of accounting.

COMMENT 5: One commenter opposed the amendment to ARM 24.201.501(1)(a)(iii), stating that it changes the education requirements to double current education requirements for a license applicant with a baccalaureate degree

with a concentration other than accounting and exam scores for an exam administered prior to May 1996.

RESPONSE 5: The board agrees with the commenter and is amending the rule to reflect the new format, but not increase the hours.

COMMENT 6: One commenter asked if an applicant can apply for a license based on education requirements in place at the time of passing the exam, or if the rule is meant to be historical only. If ARM 24.201.501(1) and (2) are intended to be historical, they should be eliminated.

RESPONSE 6: The board notes this section is not intended as merely historical. A license applicant can apply for a license with exam scores obtained during the various education requirement periods.

COMMENT 7: One commenter questioned that moving the four-year institution reference to ARM 24.201.501(3)(a) would require all qualifying education (24 semester hours above introductory level in accounting and 24 semester hours of business courses) to be taken from a four-year institution. The commenter stated that this would significantly change the current requirement that only accounting courses must be completed from a four-year institution.

RESPONSE 7: The board states that this is the intention of the rule amendment and is adopting the rule change as proposed.

COMMENT 8: One commenter asserted that the current reference in ARM 24.201.501(5) is incorrect as the accreditation agency has changed its name recently.

RESPONSE 8: The board notes that this comment is outside the scope of this rule notice. The board will consider this comment in a future rulemaking project.

COMMENT 9: One commenter opposed the amendment to ARM 24.201.502(2) which would eliminate a military experience determination of the board when based on information from the license applicant's commanding officer, and asserted the provision should be retained.

RESPONSE 9: The board concluded that this amendment resulted from multiple rule notices being processed at the same time and is amending the rule to retain the relevant language in (2)(a).

COMMENT 10: One commenter noted that the American Institute of Certified Public Accountants (AICPA) Board of Examiners Practice Analysis Oversight group is currently reviewing the format and structure of the Uniform CPA exam and suggested the board amend ARM 24.201.516 to eliminate reference to specific exam section numbers and names, and the order in which sections must be taken.

RESPONSE 10: The board agrees with the suggestions and is amending (2) accordingly.

COMMENT 11: One commenter stated that 37-50-311, MCA, allows for issuance of a license to a licensee of another jurisdiction whose license is "in full force and effect" at the time of application to Montana. The amendment to ARM 24.201.528(1) requires the original license to be "in good standing" at the time of application. The commenter suggested that "in full force and effect" may be defined differently than "in good standing," and that the amendment does not reflect the intention of statute.

RESPONSE 11: The board agrees and is amending the rule to eliminate any potentially conflicting language.

COMMENT 12: One commenter suggested the board eliminate references to specific jurisdictions in ARM 24.201.531(2) so the board will not have to continually update the rule when the National Association of State Boards of Accountancy (NASBA) changes its list. The commenter suggested the board amend the rule to generally refer to all jurisdictions deemed substantially equivalent by NASBA, as allowed by 37-50-325, MCA.

RESPONSE 12: The board concluded it is unnecessary to reference any specific equivalent jurisdictions and is amending the rule accordingly.

COMMENT 13: One commenter suggested the board amend ARM 24.201.718 to eliminate the specific version date of the standards licensees must comply with and instead require compliance with standards in existence when services are provided. The commenter asserted this would eliminate the need to continually update rules when applicable standards are updated, and remove the risk of outdated standards in rule.

RESPONSE 13: The Montana Administrative Procedure Act requires the adoption by reference of initial and subsequent versions of specific standards through the administrative rulemaking process, to ensure public notice and participation regarding each change. However, the board is amending this rule now to update the applicable standards to the more current 2014 version.

COMMENT 14: A commenter stated that ARM 24.201.1103 should require that firms performing any engagement, in accordance with standards of the PCAOB, be required to enroll in peer review. This would cover those firms not required to register and be inspected by the Public Company Accounting Oversight Board (PCAOB) that perform audits of non-issuers under the PCAOB standards.

RESPONSE 14: See Response 8.

COMMENT 15: One commenter stated the board should adopt rules to address approved sponsoring organizations of peer review programs and allow organizations that administer the American Institute of CPAs Peer Review Program to be approved

without the need for application or board review. The commenter asserted these rules would provide for approval of the PCAOB inspection process and require firms registered and inspected by the PCAOB to be enrolled in the peer review program if they have engagements that are not part of the PCAOB inspection process.

RESPONSE 15: See Response 8.

COMMENT 16: One commenter stated the board should not adopt proposed amendments to ARM 24.201.2124(1)(g), as they could be interpreted to mean that all self-study must be NASBA Registry or NASBA Quality Assurance Service courses, which is not the case. The commenter stated that other self-study courses are allowed, but are just not given the same credit hours as NASBA Registry or NASBA QAS courses, per ARM 24.201.2137(1)(a).

RESPONSE 16: The board agrees with the commenter and is further amending ARM 24.201.2124(1)(g) to clarify when NASBA ID is required and that the ID requirement for self-study is required only when applicable.

COMMENT 17: A commenter questioned whether, after striking ARM 24.201.2138(2), the board would continue to accept CPE credit on a case-by-case basis for report reviewers under a board-approved peer review program.

RESPONSE 17: The board agrees the elimination of (2) may cause some confusion and is amending the rule to allow credit for report review, but eliminate references to profession monitoring programs.

COMMENT 18: One commenter opposed the amendment to ARM 24.201.2401, stating the board should retain the mandatory requirement for board review of all anonymous complaints.

RESPONSE 18: The board concluded they must determine if they will proceed with anonymous complaints. The board intended for the amendment to clarify that the board will accept all anonymous complaints to determine appropriate further action. The board is therefore amending this rule to clarify this intent.

4. The department has amended ARM 24.101.413 exactly as proposed.

5. The board has amended ARM 24.201.202, 24.201.401, 24.201.410, 24.201.415, 24.201.510, 24.201.517, 24.201.524, 24.201.529, 24.201.535, 24.201.537, 24.201.704, 24.201.705, 24.201.707, 24.201.708, 24.201.720, 24.201.1103, 24.201.1108, 24.201.2101, 24.201.2106, 24.201.2114, 24.201.2120, 24.201.2136, 24.201.2137, 24.201.2145, 24.201.2148, 24.201.2154, 24.201.2402, and 24.201.2410 exactly as proposed.

6. The board has adopted NEW RULE I (24.201.503) exactly as proposed.

7. The board has repealed ARM 24.201.518, 24.201.536, 24.201.2108, 24.201.2113, 24.201.2121, and 24.201.2411 exactly as proposed.

8. The board has amended ARM 24.201.301, 24.201.501, 24.201.502, 24.201.516, 24.201.528, 24.201.531, 24.201.718, 24.201.2124, 24.201.2138, and 24.201.2401 with the following changes, stricken matter interlined, new matter underlined:

24.201.301 DEFINITIONS (1) through (31) remain as proposed.

(32) "System review report with a rating of '~~Failed~~ Fail'" means that due to the significant deficiencies identified in the report, the system of quality control for the accounting and auditing practice of the reviewed firm, in effect for the year most recently ended, has not been suitably designed or complied with to provide the firm with reasonable assurance of performing and reporting in conformity with applicable professional standards in all material respects.

(33) and (34) remain as proposed.

24.201.501 EDUCATION REQUIREMENTS (1) through (1)(a)(ii) remain as proposed.

(iii) a baccalaureate degree, with a concentration other than accounting and related courses in other areas of business administration which the board considers to be equivalent education, including 24 ~~12~~ semester hours (36 ~~18~~ quarter hours) of accounting, auditing, and tax courses, and 48 ~~nine~~ semester hours (27 ~~14~~ quarter hours) in other areas of business such as business law, management, marketing, economics, and finance. The nine semester hours (14 quarter hours) shall include no more than three semester hours (five quarter hours) in one area.

(2) through (7) remain as proposed.

24.201.502 ACCOUNTING AND AUDITING EXPERIENCE REQUIREMENTS (1) and (2) remain as proposed.

(a) is attested to by a holder of a permit to practice that was current at the time of attestation or for military experience evaluated by the board based on information provided by the applicant's commanding officer; and

(b) and (c) remain as proposed.

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

(2) All ~~four~~ test sections must be passed within an 18-month period, which begins on the date the first test section that was passed was taken, and ends on the last day of the last month of that 18-month period. An examination candidate 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 an 18-month period, credit for any test section passed outside the 18-month period will expire and that test section must be retaken.

(3) remains as proposed.

24.201.528 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 certificate holder, license holder, or permit holder ~~in good standing of a current and unencumbered license, certificate, or permit to practice~~ from another jurisdiction who meets the requirements established in 37-50-302 or 37-50-303, and 37-50-314, MCA.

(2) and (3) remain as proposed.

24.201.531 PRACTICE PRIVILEGE (1) remains as proposed.

(2) The board has determined that all jurisdictions approved by NASBA are deemed to be "substantially equivalent." ~~As of July 1, 2013, the following jurisdictions are "substantially equivalent":~~

~~(a) the District of Columbia;~~

~~(b) Guam;~~

~~(c) Commonwealth of the Northern Mariana Island; and~~

~~(d) all of the states in the United States of America.~~

24.201.718 APPLICABLE STANDARDS (1) remains as proposed.

(2) The board incorporates by reference the following standards, as they exist as of July 1, ~~2013~~ 2014:

(a) through (3) remain as proposed.

24.201.2124 STANDARDS FOR CPE REPORTING (1) through (1)(f) remain as proposed.

(g) NASBA Registry ID or NASBA QAS Sponsor ID (if applicable, applies to self-study).

(2) through (4) remain as proposed.

24.201.2138 CREDIT FOR SERVICE AS LECTURER, INSTRUCTOR, SPEAKER, OR REPORT REVIEWER (1) remains as proposed.

(2) Continuing education credit may be claimed for serving as a report reviewer under structured report review programs to be approved on a case-by-case basis by the board. Once approved, one hour of credit shall be granted for every hour spent reviewing reports. The maximum credit for such reviews shall be no more than 16 hours in any given calendar year.

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

BOARD OF PUBLIC ACCOUNTANTS  
LINDA HARRIS, CPA,  
PRESIDING OFFICER

/s/ DARCEE L. MOE  
Darcee L. Moe  
Rule Reviewer

/s/ PAM BUCY  
Pam Bucy, Commissioner  
DEPARTMENT OF LABOR AND INDUSTRY

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