

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

In the matter of the amendment of) NOTICE OF AMENDMENT,
ARM 24.201.301 definitions,) ADOPTION, AND REPEAL
24.201.410 fee schedule, 24.201.415)
use of cpa/lpa designation,)
24.201.501, 24.201.502, 24.201.503,)
24.201.504, 24.201.510, 24.201.517,)
24.201.528, 24.201.529, 24.201.535,)
and 24.201.537 licensing and)
examinations, 24.201.704 through)
24.201.710, 24.201.718, 24.201.720,)
24.201.723, and 24.201.726)
professional conduct rules,)
24.201.1103, 24.201.1105, and)
24.201.1108 mandatory peer review,)
24.201.2101, 24.201.2106,)
24.201.2120, 24.201.2124,)
24.201.2137, 24.201.2145,)
24.201.2148, and 24.201.2154)
renewal and continuing education,)
24.201.2402 and 24.201.2410)
complaint procedures, the adoption of)
NEW RULES I firms – registration,)
and II approved peer review)
programs and standards, and the)
repeal of 24.201.412 fee abatement,)
24.201.701 definitions, and)
24.201.2114 out-of-state applicants)
continuing education requirement)

TO: All Concerned Persons

1. On January 22, 2016, the Board of Public Accountants (board) published MAR Notice No. 24-201-49 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 110 of the 2016 Montana Administrative Register, Issue No. 2.

2. On February 23, 2016, 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 February 23, 2016, deadline.

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

COMMENT 1: One commenter noted that the board failed to insert "licensee" to replace the second stricken "permit holder" in ARM 24.201.706(1)(a). The commenter also noted that in ARM 24.201.2106(3), the board failed to replace "permit" with "license" to conform to legislative changes.

RESPONSE 1: The board appreciates all comments made during the rulemaking process and concurs with this comment. The board is amending the rules accordingly.

COMMENT 2: One commenter stated that the amendment to ARM 24.201.2148(1) requiring that licensees provide CPE audit information via the NASBA CPE tracking system is burdensome, as some licensees may lack the required technology. The commenter noted the cost of obtaining the necessary equipment to convert the documents to JPG and asserted there is also a risk of identity theft and personal data fraud. The commenter asked that the board reconsider the changes, or at least not mandate use of the CPE tracking system.

RESPONSE 2: The board appreciates all comments made during the rulemaking process, but does not agree with the commenter that using the NASBA CPE tracking system is a burden. It will allow licensees to keep up-to-date on their CPE requirement with minimal equipment and time. The board is amending the rule exactly as proposed.

COMMENT 3: One commenter disagreed with the board's determination that the amendment to ARM 24.201.2148(1) requiring that licensees utilize the NASBA CPE system will not be a significant and direct impact on Montana small business. The commenter asserted that the cost of implementing the amendment will exceed the proposed savings in licensing fees.

RESPONSE 3: The board appreciates all comments made during the rulemaking process. Although the board acknowledges the change may result in a direct impact to small business, 2-4-111, MCA, requires a "yes" determination only if the impact is found to be both direct and significant. As well, the statute requires a small business impact analysis only following a "yes" determination.

COMMENT 4: Several commenters raised concerns over the requirement proposed in ARM 24.201.501 requiring completion of 120 semester hours of education to qualify to sit for the Uniform CPA Exam as a Montana candidate. The commenters stated that many foreign students in the process of meeting the current education requirements would have to abandon the CPA exam and licensing. The commenters requested the board either not proceed with the amendment or provide a one-year grace period for current students.

RESPONSE 4: The board agrees with the commenters and notes that the proposed amendment would have unintended consequences for foreign exam candidates. The board is amending the rule accordingly to remove the requirement.

COMMENT 5: One commenter requested clarification that exam candidates who qualified under the current requirements would be allowed to complete the exam without meeting the new proposed amended requirements.

RESPONSE 5: Because the board is not proceeding with the proposed amendment, the commenter's concerns are now resolved.

4. The board has amended ARM 24.201.301, 24.201.410, 24.201.415, 24.201.502, 24.201.503, 24.201.504, 24.201.510, 24.201.517, 24.201.528, 24.201.529, 24.201.535, 24.201.537, 24.201.704, 24.201.705, 24.201.707, 24.201.708, 24.201.709, 24.201.710, 24.201.718, 24.201.720, 24.201.723, 24.201.726, 24.201.1103, 24.201.1105, 24.201.1108, 24.201.2101, 24.201.2120, 24.201.2124, 24.201.2137, 24.201.2145, 24.201.2148, 24.201.2154, 24.201.2402, and 24.201.2410 exactly as proposed.

5. The board has adopted NEW RULES I (24.201.505) and II (24.201.1109) exactly as proposed.

6. The board has repealed ARM 24.201.412, 24.201.701, and 24.201.2114 exactly as proposed.

7. The board has amended ARM 24.201.501, 24.201.706, and 24.201.2106 with the following changes, stricken matter interlined, new matter underlined:

24.201.501 EDUCATION REQUIREMENTS TO SIT FOR EXAM (1) through (1)(a)(ii) remain as proposed.

~~(b) 120 semester hours of education from a college or university.~~

(2) through (5) remain as proposed.

24.201.706 COMPETENCE (1) remains as proposed.

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

(b) and (c) remain as proposed.

24.201.2106 BASIC CONTINUING EDUCATION REQUIREMENT (1) and (2) remain as proposed.

(3) Applicants for a ~~permit to practice~~ license must meet the basic requirement of CPE by December 31 of the third year following the year of the initial issuance of the Montana ~~permit~~ license (example: If an individual received their license in 2015, they must meet the basic CPE requirement by December 31, 2018).

(4) remains as proposed.

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

Certified to the Secretary of State May 23, 2016