

BEFORE THE BOARD OF PHARMACY
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 24.174.301 definitions, 24.174.401)
fee schedule, 24.174.1122 ambulatory)
surgical facilities, and 24.174.2104)
continuing education)

TO: All Concerned Persons

1. On March 13, 2008, the Board of Pharmacy (board) published MAR Notice No. 24-174-58 regarding the amendment of the above-stated rules, at page 447 of the 2008 Montana Administrative Register, issue no. 5.

2. On April 3, 2008, a public hearing was held on the proposed amendment of the above-stated rules in Helena. Several comments were received by the April 11, 2008, deadline.

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

COMMENT 1: One commenter suggested that defining the fiscal year from July 1 to June 30 without any year designation in ARM 24.174.2104(2) is confusing.

RESPONSE 1: Given the opposition to other portions of the proposed rule change, the board is not proceeding with the proposed amendments to this rule.

COMMENT 2: Numerous commenters opposed to the proposed elimination of the CEU carryover from one year to the next. Several commenters stated that the change would impose an undue burden on rural area pharmacists having limited access to CE credits and facing greater travel time, additional difficulty, and expense in securing relief pharmacists to cover the pharmacy. Commentators opposed the change stating it would discourage pharmacists' attendance at the beneficial but fairly expensive regional or national conferences since any excess CE credits would be wasted. Many argued Montana's group credit requirement is an additional hurdle that would be made more difficult by removing CE carryover and suggested eliminating the group CE requirement if CE carryover is disallowed.

Several individuals opposed eliminating carryover because it would remove the security of having a CE cushion for use in case of illness, emergency, or inclement weather at the time of a planned CE forum.

Several commenters recognized CE fraud as a problem, but objected to punishing all pharmacists for the bad acts of a few. Commenters suggested the board impose more effective discipline on those caught cheating and perform more effective audits to catch those committing fraud. Suggestions for improving the audit

system included staggered, two-year renewal cycles, annual reporting of CE credits with license renewal, requiring CE providers to send attendance confirmation to the board, and/or auditing two or three years at a time.

RESPONSE 2: The board concluded that many of the commenters' suggestions warrant further review and the issues of CE requirements and board audit procedures will be placed on a future board agenda. Several suggestions, including changing group CE credits, would involve substantive rule changes not within the scope of this notice and would require a separate rulemaking process. Following review and discussion, the board decided to not proceed with the proposed amendments to ARM 24.174.2104 at this time.

4. The board has amended ARM 24.174.301, 24.174.401, and 24.174.1122 exactly as proposed.

5. The board is not amending ARM 24.174.2104 at this time.

BOARD OF PHARMACY
JAMES CLOUD, CPHT, PRESIDENT

/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 June 2, 2008