

BEFORE THE BOARD OF RESPIRATORY CARE PRACTITIONERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the proposed amendment) NOTICE OF PUBLIC HEARING
of ARM 24.213.402 application for) ON PROPOSED AMENDMENT
licensure and 24.213.408 examination)

TO: All Concerned Persons

1. On July 28, 2006, at 9:00 a.m., a public hearing will be held in room 489, 301 South Park Avenue, Helena, Montana to consider the proposed amendment 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 Respiratory Care Practitioners no later than 5:00 p.m., on July 21, 2006, to advise us of the nature of the accommodation that you need. Please contact Helena Lee, Board of Respiratory Care Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2385; Montana Relay 1-800-253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; e-mail dlibsdrpc@mt.gov.

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

24.213.402 APPLICATION FOR LICENSURE (1) An application for a license or temporary practice permit must be made on a form provided by the ~~board~~ department and completed and signed by the applicant with the signature acknowledged before a notary public.

(2) The application must be typed or legibly written in ink, accompanied by the appropriate application and license fees, and contain sufficient evidence that the applicant possesses the qualifications set forth in Title 37, chapter 28, MCA, and rules promulgated thereunder. Pursuant to 37-28-202, MCA, a copy of the National Board for Respiratory Care (NBRC) card, showing that the applicant has successfully completed the NBRC examination, demonstrates that the applicant has completed the requirements for licensure.

(3) through (6) remain the same.

(7) All requests for reasonable accommodations under the Americans with Disabilities Act of 1990, at 42 USC sections 12101, et seq., must be made on forms provided by the ~~board~~ department and submitted with the application ~~prior to any application deadline set by the board.~~

(8) remains the same.

AUTH: 37-1-131, 37-1-134, 37-1-141, 37-28-104, MCA
IMP: 37-1-104, 37-1-134, 37-28-201, 37-28-202, MCA

REASON: Montana's 59th Legislature enacted House Bill (HB) 182 (Chapter 467, L. 2005) that became effective July 1, 2005. This legislation generally revised and consolidated professional and occupational licensing laws; provided distinction between department and board or program duties regarding licensure, examination, and fees; required standardization of forms; set uniform standards for license renewal, including renewal periods; removed specific board or program references if duties are assigned to the department or provided generally to all boards; and repealed certain board-specific or program-specific references to licensure, examinations, and fees. The amended rule implements the change in distinction between department and board duties.

Possession of the National Board for Respiratory Care (NBRC) practitioners card confirms that the applicant has completed high school or the equivalent; and has completed a respiratory care educational program accredited or provisionally accredited by the American Medical Association's Committee on Allied Health Education and Accreditation in collaboration with the Joint Review Committee for Respiratory Therapy Education and passage of the entry-level examination written by the National Board for Respiratory Care or another examination that satisfies the standards of the National Commission for Health Certifying Agencies or commission's equivalent pursuant to 37-28-202, MCA. The proposed amendment is reasonably necessary in order to clarify to applicants that submission of the NBRC card means that applicants do not have to also supply the underlying documents (high school and college transcripts, and independent verification of having passed the NBRC examination) as part of the application process. In addition to being reasonably necessary to reduce the burden upon applicants, the proposed amendments are reasonably necessary in order to provide a reduced volume of documents that will allow department staff to more efficiently process applications.

There is also reasonable necessity to amend the authority and implementing citations to the rule, while the rule is otherwise being amended, in order to correctly reflect the board's rulemaking authority and the statutes being implemented by the rule.

24.213.408 EXAMINATION (1) The board determines that a scaled score of 75 on a 0 to 99 scale of the certification examination for entry-level respiratory therapy practitioners examination, or the registry examination, utilized by the National Board of for Respiratory Care (NBRC), shall be prescribed as the accepted testing requirement for licensing in this state.

(2) Applicants for original licensure shall provide evidence that they have successfully passed the examination. A copy of the National Board for Respiratory Care (NBRC) card, showing that the applicant has successfully completed the NBRC examination, is evidence that the applicant has successfully passed the examination requirement for licensure.

AUTH: 37-1-131, 37-1-134, 37-1-141, 37-28-104, MCA
IMP: 37-28-104, 37-28-202, MCA

REASON: Possession of the National Board for Respiratory Care (NBRC) practitioners card confirms that the applicant has completed high school or the equivalent; and has completed a respiratory care educational program accredited or provisionally accredited by the American Medical Association's Committee on Allied Health Education and Accreditation in collaboration with the Joint Review Committee for Respiratory Therapy Education and passage of the entry-level examination written by the National Board for Respiratory Care or another examination that satisfies the standards of the National Commission for Health Certifying Agencies or commission's equivalent pursuant to 37-28-202, MCA. The proposed amendment is reasonably necessary in order to clarify to applicants that submission of the NBRC card means that applicants do not have to also supply the underlying documents (high school and college transcripts, and independent verification of having passed the NBRC examination) as part of the application process. In addition to being reasonably necessary to reduce the burden upon applicants, the proposed amendments are reasonably necessary in order to provide a reduced volume of documents that will allow department staff to more efficiently process applications.

There is also reasonable necessity to amend the authority and implementing citations to the rule, while the rule is otherwise being amended, in order to correctly reflect the board's rulemaking authority and the statutes being implemented by the rule.

4. 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 Respiratory Care Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or by e-mail to dlibsdrpc@mt.gov, and must be received no later than 5:00 p.m., August 7, 2006.

5. 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.respcare.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 website accessible at all times, concerned persons should be aware that the website 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.

6. The Board of Respiratory Care Practitioners 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 which includes the name and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all Board of Respiratory

Care Practitioners administrative rulemaking proceedings or other administrative proceedings. Such written request may be mailed or delivered to the Board of Respiratory Care Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2305, e-mailed to dlibsdrpc@mt.gov, or made by completing a request form at any rules hearing held by the agency.

7. The bill sponsor notice requirements of 2-4-302, MCA, apply and have been fulfilled.

8. Lon Mitchell, attorney, has been designated to preside over and conduct this hearing.

BOARD OF RESPIRATORY CARE
PRACTITIONERS
EILEEN CARNEY, 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 June 26, 2006