

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

In the matter of the amendment) NOTICE OF AMENDMENT
of ARM 24.101.413 renewal dates and) AND REPEAL
requirements, 24.213.401 fee schedule,)
24.213.402 application for licensure,)
24.213.412 renewals, 24.213.415 inactive)
status, 24.213.2101 continuing education)
requirements, 24.213.2107 traditional)
education by nonsponsored organizations,)
24.213.2121 waiver of continuing)
education requirement, and repeal of)
24.213.405 temporary permit)

TO: All Concerned Persons

1. On May 10, 2007, the Department of Labor and Industry (department) and Board of Respiratory Care Practitioners (board) published MAR Notice No. 24-213-16 regarding the proposed amendment and repeal of the above-stated rules, at page 574 of the 2007 Montana Administrative Register, issue no. 9.

2. On June 5, 2007, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the June 13, 2007, deadline.

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

COMMENT 1: Numerous commenters opposed the increase in the annual renewal fee at ARM 24.213.401, asserting that the board did not adequately explain the necessity of a 100 percent increase and that such an increase is a burden to Montana licensees with fixed incomes. The commenters believe the proposed increase is not justified and questioned the specific increases in the board's budget.

RESPONSE 1: After considering the commenters' concerns, the board had staff project several different fee increases to determine how the board could meet both expected and unexpected budget items while keeping fees commensurate with costs, per 37-1-134, MCA, and avoid the need to increase fees again so soon. Although a 100 percent increase of the renewal fee would provide the board with a greater margin to meet unforeseen expenditures, such as computer replacement or defending law suits, and would have prevented the board from seeking another possible fee increase for the next few years, the board reconsidered the matter and voted to set the fee at \$75 annually. This increase allows the board to meet operating expenses and provides a thin margin for unforeseen expenses.

The board would like to note that the department is required biennially to provide detailed information to the Montana Legislature on current and projected licensee numbers and board revenues, expenses, activities, goals, objectives, and complaints. The board also reviews a detailed, current financial report, including the board's fiscal year income and expenditures to date, at each full board meeting. This fiscal information is publicly available from the board and is open to public inspection and scrutiny.

COMMENT 2: One commenter suggested the board require licensees submit continuing education units (CEU) with the annual renewal instead of every two years as a way of reducing the processing time of CEUs.

RESPONSE 2: The board decided to continue requiring biennial CEU reporting to permit the licensee the flexibility to obtain the 24 CEUs in the preceding 24 months as opposed to 12 units per year. Biennial reporting also allows the board to conduct biennial random audits thereby reducing staff time involved in conducting the audits.

COMMENT 3: One commenter asked whether more than one person will approve or disapprove CEUs if all CEUs must be preapproved. The commenter also questioned whether hospitals that are major healthcare facilities could gain approval to provide CEUs.

RESPONSE 3: Current rules provide several options for obtaining CEUs, including ARM 24.213.2104, identifying numerous preapproved organizations that provide continuing education germane to the practice of respiratory care. Course preapproval is required only when a licensee chooses to obtain continuing education from a nonsponsored organization or by teaching educational courses. The question of hospitals providing CEUs is outside the scope of this rule notice and therefore cannot be addressed at this time.

COMMENT 4: Numerous licensees signed a petition in opposition to every proposed amendment in the board's rule notice, but failed to provide reasoning for the opposition.

RESPONSE 4: The board acknowledges the comments and is decreasing the amount of the annual renewal fee. The board is unable to respond in detail to a broad opposition to the proposed rule amendments.

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

5. The board has amended ARM 24.213.402, 24.213.412, 24.213.415, 24.213.2101, 24.213.2107, and 24.213.2121 exactly as proposed.

6. The board has amended ARM 24.213.401 with the following changes, stricken matter interlined, new matter underlined:

24.213.401 FEE SCHEDULE (1) through (1)(b) remain as proposed.

(c) Renewal fee (annual)
(d) and (e) remain as proposed.

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7. The board has repealed ARM 24.213.405 exactly as proposed.

BOARD OF RESPIRATORY CARE
PRACTITIONERS
EILEEN CARNEY, BOARD CHAIRPERSON

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

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

DEPARTMENT OF LABOR AND INDUSTRY

/s/ KEITH KELLY
Keith Kelly, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 10, 2007