

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

In the matter of the amendment of )  
ARM 24.213.301 definitions, )  
24.213.402 application for licensure, )  
24.213.408 examination, 24.213.415 )  
inactive status, 24.213.504 )  
authorization to perform testing, )  
24.213.2101 continuing education )  
requirements, 24.213.2104 and )  
24.213.2107 traditional education by )  
organizations, 24.213.2111 teaching - )  
category III, 24.213.2114 papers, )  
publications, journals, and course )  
work, and 24.213.2301 )  
unprofessional conduct, the adoption )  
of NEW RULE I training—conscious )  
sedation, and the repeal of ARM )  
24.213.501 institutional guidelines )  
concerning education and certification )

NOTICE OF PUBLIC HEARING ON  
PROPOSED AMENDMENT,  
ADOPTION, AND REPEAL

TO: All Concerned Persons

1. On September 29, 2014, at 1:30 p.m., a public hearing will be held in the Large Conference Room, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment, adoption, and repeal 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 (board) no later than 5:00 p.m., on September 24, 2014, to advise us of the nature of the accommodation that you need. Please contact Ian Marquand, Board of Respiratory Care Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2360; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or [dlibsdrpc@mt.gov](mailto:dlibsdrpc@mt.gov) (board's e-mail).

3. GENERAL REASONABLE NECESSITY STATEMENT: The board conducted a top-to-bottom review of all of its administrative rules in 2013, and concluded that it is necessary to update the rules throughout to reflect the current regulatory and practice environment and to better clarify and organize the board's administrative rules. Some of the proposed amendments are technical in nature, such as renumbering or amending punctuation within certain rules following amendment and to comply with ARM formatting requirements. Other changes replace out-of-date terminology for current language and processes, delete

unnecessary or redundant sections, and amend rules for accuracy, consistency, simplicity, better organization, and ease of use. Authority and implementation citations are amended throughout to accurately reflect all statutes implemented through the rules, provide the complete sources of the board's rulemaking authority, and delete references to repealed statutes. Accordingly, the board has determined that it is reasonably necessary to generally amend certain rules at this time. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

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

24.213.301 DEFINITIONS ~~(4)~~ (3) ~~The board defines "emergency~~ Emergency procedures" as that term is used in 37-28-102, MCA, ~~to include includes,~~ but is not ~~be~~ limited to, ~~known~~ and physician-approved protocols relating to life-sustaining procedures in emergency situations in the absence of the immediate direction of a physician. Emergency respiratory care may also be provided during transportation of a patient and under any circumstances where an epidemic, public disaster, or other emergency necessitates respiratory care.

~~(2)~~ (8) For the purposes of 37-28-102(3)(a), MCA, "respiratory care" does not include the delivery, assembly, testing, simulated demonstration of the operation, or demonstration of safety and maintenance of respiratory therapy equipment by home medical equipment ("HME") personnel to a client's home, pursuant to the written prescription of a physician. "Respiratory care" does include any instruction to the client regarding clinical use of the equipment, or any monitoring, assessment, or other evaluation of therapeutic effects.

~~(3)~~ (1) ~~The board defines "clinical~~ Clinical supervision" as means the availability of a licensed respiratory care practitioner for purposes of immediate communication and consultation.

~~(4)~~ (7) ~~The board defines "pulse~~ Pulse oximetry," "pulmonary function testing," and "spirometry" as mean diagnostic procedures that, pursuant to the orders of a physician, may be performed only by, or under clinical supervision of, a licensed respiratory care practitioner and/or other licensed health care provider who has met the minimum competency standards. The individual performing pulmonary function testing and spirometry must meet minimum competency standards, as they currently exist, as established by the National Institute for Occupational Safety and Health (NIOSH) or the National Board for Respiratory Care (NBRC) certification examination for entry level respiratory therapist, certification examination for entry level pulmonary function technologist (CPFT) credential, or registry examination for Advanced Pulmonary Function Technologists (RPFT) specific to pulmonary function testing.

~~(5)~~ (4) ~~The board defines "formal~~ Formal pulmonary function testing" ~~to include includes,~~ but is not ~~be~~ limited to:

(a) and (b) remain the same.

~~(6)~~ (5) ~~The board defines "informal~~ Informal screening spirometry" ~~to include includes,~~ but is not ~~be~~ limited to:

(a) through (d) remain the same.

(2) "Conscious sedation" means the administration of a pharmacological agent by a respiratory care provider as prescribed by a physician.

(6) "NRBC" means the National Board for Respiratory Care.

AUTH: Sections ~~(2)~~ (8) and ~~(3)~~ (1) are advisory only, but may be a correct interpretation of the law, 37-28-104, MCA

IMP: 37-28-101, 37-28-102, MCA

REASON: The board is amending the definition of "emergency procedures" after determining that the term "known" protocols is overly vague and could be interpreted as meaning surface awareness of protocols, rather than established knowledge and acceptance. The board notes that use of "known" raises the question "known by whom?" The board concluded that physician-approved protocols should be the only protocols referenced for emergency procedures and is amending (3) accordingly.

The board is adding (2) to define "conscious sedation" as used in proposed New Rule I. The board notes that ARM 24.213.501 outlined guidelines for conscious sedation without defining the term. The board is repealing ARM 24.213.501 and adopting New Rule I to clarify the application of health facility guidelines to licensees administering conscious sedation.

The board is adding (6) to define the National Board for Respiratory Care and its acronym since the NBRC is referenced multiple times in board rules.

24.213.402 APPLICATION FOR LICENSURE (1) remains the same.

~~(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 passage of the NBRC examination, demonstrates that the applicant has completed the examination requirements for licensure.~~

~~(3) The board shall require the applicant to submit the original hard copy or electronic certified documents in support of the application. The board may permit such documents to be withdrawn upon substitution of a true copy.~~

~~(4) The board shall require the applicant to submit a recent, passport-type photograph of the applicant.~~

~~(5) (4) The board or department, at the board's discretion, shall review fully completed applications for compliance with board law and rules and shall notify the applicant in writing of the results of the evaluation of the application. The board may request such additional information or clarification of information provided in the application as it deems reasonably necessary. Incomplete applications shall be returned to the applicant with a statement regarding Applicants will be notified of incomplete portions of an application and will be asked to provide the missing information.~~

~~(6) (5) The applicant shall correct any deficiencies and resubmit the application submit the missing information to the board. Failure to resubmit the application Applications that are not completed within 60 days shall be treated as a voluntary withdrawal one year from the date of the application shall expire. After~~

~~voluntary withdrawal, and the~~ applicant will be required to submit an entirely new application to begin the process again.

(7) remains the same, but is renumbered (6).

~~(8)~~ (7) An applicant who has been away from the practice of the profession of respiratory care for more than three years shall provide evidence of competency.

The applicant may demonstrate competency by:

~~(a) providing proof of completion (within the last 60 months) of a minimum of 30 hours of continuing education acceptable to the board;~~

(b) remains the same, but is renumbered (a).

~~(c)~~ (b) passing an another National Board for Respiratory Care (NBRC) credentialing examination; not previously completed.

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

IMP: 37-1-101, 37-1-104, 37-1-131, 37-1-134, 37-1-141, 37-28-201, 37-28-202, MCA

REASON: The board determined it is reasonably necessary to amend (2) after concluding that requiring typed or ink-written applications is anachronistic. Noting that applications may be completed using computers and printers, or submitted through the department's online application system, the board decided to no longer limit the means for submitting applications. The board is further amending (2) after determining that the language regarding the NBRC examination is flawed in that a NBRC card alone does not satisfy all aspects of 37-28-202, MCA. The board determined that there are other forms of proof of NBRC examination passage besides a card issued by NBRC, and that proof of exam passage should be the only means to fulfill the examination requirement of 37-28-202, MCA.

The board is amending (3) to no longer require that applicants submit physical "hard copy" documents. The board determined that this requirement is obsolete in the current environment of electronic documents and that it is reasonable to allow both physical and electronic documents to be submitted in support of an application. The board is also eliminating the second sentence regarding a "true copy" as unnecessary, especially for electronic documents.

The board is striking (4) as the board determined that a photograph is not necessary to process an application. The department has advised the board that photographs do not reproduce well once applications are scanned for inclusion in the department's database.

The board is amending new (4) to reflect the current licensure process in which the department's licensing bureau reviews applications for completeness and compliance with licensure requirements. Also in accordance with current department procedures, the board is amending (4) to no longer return incomplete applications. Licensing bureau staff will notify applicants of missing items while retaining application materials.

It is reasonably necessary to amend (5) to align with the department's standardized policy that applications remain active for one year after receipt. The board wishes for its rule to be consistent with that policy. The board is further amending (5) to be consistent with (4) regarding request for and submission of missing application items.

The board is amending (7) after determining that 30 hours of continuing education (CE) over a five-year period is an inadequate standard for re-entry into the profession. The board concluded that removing the CE option and relying solely on examination will better measure an individual's continued competency to practice.

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 offered by the National Board for Respiratory Care, (NBRC) shall be prescribed as the accepted testing requirement~~ the exam prescribed 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: 37-1-131, ~~37-28-104~~, 37-28-202, MCA

REASON: The board is amending (1) to clearly delineate that passage of the NBRC exam is governed by the NBRC and the board should not have its own standard.

The board is amending (2) to remove the requirement for an applicant to present the NBRC card, since the requirement is being stricken elsewhere in the rules. The board determined that there are other means to prove passage of the NBRC exam than the card.

24.213.415 INACTIVE STATUS (1) A licensee who wishes to retain a license, but who will not be practicing respiratory care, may obtain inactive status by indicating this intention on the annual renewal form ~~or by submission of an application and payment of~~ paying the appropriate fee. An individual licensed on inactive status may not practice respiratory care during the period in which the licensee remains on inactive status.

(2) An individual licensed on inactive status may convert this license to active status by submission of ~~an appropriate application~~ a request to reactivate and payment of the renewal fee for the year in question. ~~The application~~ request to reactivate must contain evidence of ~~one of the following:~~

(a) ~~full-time practice of respiratory care in another state and completion of continuing education for each year of inactive status, substantially equivalent, in the opinion of the board, to that required under these rules; or,~~

(b) ~~completion of a minimum of 12 continuing education units within one year prior to application for reinstatement.~~

(3) ~~In no case may an~~ An individual remain on whose license has been inactive status for more than two three years in all jurisdictions must retake the examination required under ARM 24.213.408. ~~Documentation of the continuing education that would have been submitted had the license been renewed in a timely manner shall be required.~~

AUTH: 37-1-131, 37-1-319, 37-28-104, MCA  
IMP: 37-1-131, ~~37-1-441~~, 37-1-319, MCA

REASON: The board determined it is reasonably necessary to amend (1) and (2) to reflect current processes, as the board has no specific application for changing to inactive status. The board decided that a "request to reactivate" is more appropriate.

The board is further amending (2) after determining that 12 hours of continuing education in the year prior to requesting reactivation is inadequate to prove clinical competency as a basis for reactivation. The board concluded that safe practice of respiratory care requires continual, but not necessarily full-time, active practice and continuing education, and is amending (2) to reflect this decision.

The board is amending (3) to allow licensees on inactive status up to three years to resume active status by retaking and passing the examination. The board determined that the two year limit is unnecessarily punitive and concluded that long-term, completely inactive RCPs should have the option of returning to active practice and that examination is the best means to ensure clinical competency.

24.213.504 AUTHORIZATION TO PERFORM FORMAL PULMONARY FUNCTION TESTING AND INFORMAL, BASIC SCREENING SPIROMETRY

~~(1) Properly licensed health care providers performing informal pulmonary function testing or spirometry should meet minimum competency standards as established by the National Institute for Occupational Safety and Health (NIOSH) or the National Board for Respiratory Care (NBRC).~~

(2) remains the same, but is renumbered (1).

AUTH: 37-1-131, 37-28-104, MCA  
IMP: 37-1-131, 37-28-102, ~~37-28-104~~, MCA

REASON: The board determined that the provisions in (1) are advisory only, and subject to interpretation by licensees and, thus, should be removed. Following amendment, the board will rely on the standards in (2) when determining whether licensees are qualified to perform informal pulmonary function testing and spirometry.

24.213.2101 CONTINUING EDUCATION REQUIREMENTS (1) Upon renewal of licensure, each respiratory care practitioner must affirm on the renewal form in each even numbered year beginning in 2008 that the licensee ~~will have~~ completed 24 continuing education units in the preceding 24 months. One continuing education unit is equivalent to 50 minutes in length.

(2) It is the sole responsibility of each licensee to meet the continuing education requirement, and to provide documentation of this compliance if so requested during a random audit. The random audit will be conducted on a biennial basis.

(3) A licensee who fails to obtain a sufficient number of continuing education units may satisfy the requirement by taking and passing the ~~National Board of~~

~~Respiratory Care NBRC~~ entry level exam or the registered respiratory advanced practitioner examination during the preceding 24 months.

(4) through (6) remain the same.

~~(7) If documentation of the continuing education requirement is improper or inadequate, the respiratory care practitioner shall correct the deficiency. If the requirement is not completed within 90 days, the license shall be expired and the renewal fee forfeited. Misrepresentation of compliance shall constitute grounds for disciplinary action.~~

AUTH: 37-1-131, 37-1-319, 37-28-104, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, ~~37-28-104~~, MCA

REASON: The board is deleting language in (7) regarding forfeiture of renewal fees and forced license expiration as these provisions are contrary to department renewal policy and rules. The board concluded that it is unnecessary to repeat these standardized department procedures in board rule.

24.213.2104 TRADITIONAL EDUCATION BY SPONSORED

ORGANIZATIONS -- CATEGORY I (1) Continuing education programs sponsored by the following organizations, which are germane to the profession of respiratory care, and are approved by the board:

(a) Institutions approved by the Joint Review Committee for Respiratory Therapy Education, Respiratory Care Accreditation Board or other successor accreditation organizations and courses approved by the American Association for Respiratory Care, ~~the Montana Society for Respiratory Care~~ and its affiliates, the American Thoracic Societies, the American College of Cardiology, the American College of Chest Physicians, the American Nurses Association, the National Society for Cardiopulmonary Technologists, the American Lung Association, the American Lung Association of Montana, the Montana Heart Association, the Montana and American Medical Association, the Montana Hospital Association and Respiratory Care Journal (American Association of Respiratory Care sponsored).

(b) through (b)(iv) remain the same.

(v) online courses, webinars, and correspondence courses accompanied by a study guide, syllabus, bibliography and/or examination.

(2) remains the same.

AUTH: 37-1-131, 37-1-319, 37-28-104, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, ~~37-28-104, 37-28-203~~, MCA

REASON: The board determined it is reasonably necessary to amend (1)(a) and no longer list the Montana Society of Respiratory Care (MSRC) by name. Since the MSRC is an affiliate of the AARC, the board is adding "and its affiliates" which will suffice and allow for any AARC affiliate by any name to qualify.

The board is adding (1)(b)(v) to accept online continuing education (CE) courses or webinars that are sponsored by board-approved entities. The board also recognizes that current CE programs often do not come with a study guide or other

printed materials, and may not conclude with an examination. The board is amending this subsection to match the current CE environment.

24.213.2107 TRADITIONAL EDUCATION BY NONSPONSORED ORGANIZATIONS -- CATEGORY II (1) Continuing education activities which do not meet the definition of ARM 24.213.2104 may be submitted for review by the ~~Montana Board of Respiratory Care Practitioners~~ board for prior approval.

(2) Approved activities in this category may include seminars, workshops, conferences, in-service programs, online courses, webinars, and correspondence courses accompanied by a study guide, syllabus, bibliography, and examination.

(3) remains the same.

AUTH: 37-1-131, 37-1-319, 37-28-104, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, ~~37-28-104,~~ MCA

REASON: The board is amending (2) to allow online CE courses and webinars for the same reasons as for the amendments to ARM 24.213.2104.

24.213.2111 TEACHING -- CATEGORY III (1) No more than eight credit units may be ~~applied~~ earned in this category based on a self-report by the licensee, ~~with credit units being awarded on a two-to-one ratio. For a one-hour presentation, the presenter will be awarded two credit units.~~ Two credits will be awarded for each hour of presentation.

(2) This category includes teaching ~~addressed to~~ allied health professionals. Any given activity may be submitted for continuing education credit units only once.

(3) Credit units spent in preparation, review, and/or evaluation of activities, which are different from the applicant's usual and customary professional employment, and which are not requested as credits in any other category, may be submitted under this section.

(4) and (5) remain the same.

AUTH: 37-1-131, 37-1-319, 37-28-104, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, ~~37-28-104, 37-28-203,~~ MCA

REASON: The board is amending this rule to more clearly describe how credits are awarded for licensee presentations and teaching.

24.213.2114 PAPERS, PUBLICATIONS, JOURNALS, EXHIBITS, VIDEOTAPES VIDEOS, INDEPENDENT STUDY, AND COLLEGE COURSE WORK -- CATEGORY IV (1) A maximum of eight credit units not sponsored by organizations listed by ARM 24.213.2104, may be ~~applied~~ earned in this category based upon a self-report by the licensee.

(2) An outline of the objectives or a reference citation for the paper, journal, ~~videotape~~ video, etc., germane to the profession must be submitted to the board.

(3) and (4) remain the same.

(a) one semester-hour is equal to 1.5 continuing education units; or

(b) one quarter-hour is equal to one continuing education unit.

(5) remains the same.

AUTH: 37-1-131, 37-1-319, 37-28-104, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-28-104, 37-28-203, MCA

24.213.2301 UNPROFESSIONAL CONDUCT ~~In addition to 37-1-316, MCA,~~

The board defines "unprofessional conduct" as follows:

- (1) Intentional or negligent physical, verbal, or mental abuse of a client in a clinical setting;
- (2) remains the same.
- (3) Diverting drugs, supplies, or property of patients or health care providers;
- (4) Falsifying, altering, or making incorrect essential entries, or failing to make essential entries of client records;
- (5) Using a firm name, letterhead, publication, term, title, designation, or document which states or implies an ability, relationship, or qualification that does not exist;
- (6) through (11) remain the same.
- (12) Violating any state, federal, provincial, or tribal statute, or administrative rule governing or affecting the professional conduct of any licensee;
- (13) Being convicted of a misdemeanor or any felony involving the use, consumption, or self-administration of any dangerous drug, controlled substance, or alcoholic beverage, or any combination of such substances;
- (14) remains the same.
- (15) Acting in such a manner as to present a danger to public health or safety, or to any client including, but not limited to, incompetence, negligence, or malpractice;
- (16) remains the same.
- (17) Performing services outside of the licensee's area of training, expertise, competence, or scope of practice or licensure;
- (18) Failing to obtain an appropriate consultation or make an appropriate referral when the problem of the client is beyond the licensee's training, experience, or competence;
- (19) Maintaining a relationship with a client that is likely to impair the licensee's professional judgment or increase the risk of client exploitation, including providing services to employees, supervisees, close colleagues, or relatives;
- (20) Exercising influence on or control over a client, including the promotion or the sale of services, goods, property, or drugs for the financial gain of the licensee or a third-party;
- (21) Promoting for personal gain any drug, device, treatment, procedure, product, or service which is unnecessary, ineffective, or unsafe;
- ~~(22) Charging a fee that is clearly excessive in relation to the service or product for which it is charged;~~
- ~~(23)~~ (22) Failing to render adequate supervision, management, training, or control of auxiliary staff or other persons, including the licensee, practicing under the licensee's supervision or control according to generally accepted standards of practice;

~~(24)~~ (23) Discontinuing professional services, unless services have been completed, the client requests the discontinuation, alternative or replacement services are arranged, or the client is given a reasonable opportunity to arrange alternative or replacement services;

~~(25)~~ (24) Delegating a professional responsibility to a person when the licensee knows, or has reason to know, that the person is not qualified by training, experience, license, or certification to perform the delegated task. A professional responsibility that may not be delegated, includes, but is not limited to, pulse oximetry;

~~(26)~~ ~~Accepting, directly or indirectly, employment from any person who is not licensed to practice the profession or occupation, or who is not licensed or authorized to operate a professional practice or business;~~

(27) and (28) remain the same, but are renumbered (25) and (26).

~~(29)~~ (27) Failing to obtain informed consent from patient or patient's representative prior to providing any therapeutic, preventative, palliative, diagnostic, cosmetic, or other health-related care;

(30) and (31) remain the same, but are renumbered (28) and (29).

~~(32)~~ (30) Ordering, performing, or administering, without clinical justification, tests, studies, x-rays, treatments, or services;

~~(33)~~ (31) Possessing, using, prescribing for use, or distributing controlled substances or legend drugs in any way other than for legitimate or therapeutic purposes, diverting controlled substances or legend drugs, violating any drug law, or prescribing controlled substances for oneself;

~~(34)~~ (32) Prescribing, dispensing, or furnishing any prescription drug without a prior examination and a medical indication therefore;

~~(35)~~ (33) Failing to provide to a patient, patient's representative, or an authorized health care practitioner, upon a written request, the medical record or a copy of the medical record relating to the patient which is in the possession or under the control of the professional. Prior payment for professional services to which the records relate, other than photocopy charges, may not be required as a condition of making the records available;

~~(36)~~ (34) Engaging in sexual contact, sexual intrusion, or sexual penetration, as defined in Title 45, chapter 2, MCA, with a client during a period of time in which a professional relationship exists; or

~~(37)~~ ~~Failing to account for funds received in connection with any services rendered or to be rendered.~~

~~(38)~~ (35) Failure to supply continuing education documentation as requested by the audit procedure set forth in ARM 24.213.2101, or supplying misleading, incomplete, or false information relative to continuing education taken by the licensee.

AUTH: 37-1-131, 37-1-319, 37-28-104, MCA

IMP: 37-1-131, 37-1-316, 37-1-319, 37-28-210, MCA

**REASON:** The board determined it is reasonably necessary to delete (22) as the board concluded the provision is too open to interpretation and therefore difficult to enforce in compliance actions.

The board is also removing (26), because in current RCP employment opportunities, licensees may be employed by hospitals or other entities that would not meet the language of this section.

After concluding that the board is ill-prepared to make any judgment on the accounting practices or abilities of licensees, the board is striking (37) from unprofessional conduct.

5. The proposed new rule provides as follows:

NEW RULE I TRAINING–CONSCIOUS SEDATION (1) Respiratory care practitioners shall meet the guidelines and protocols regarding education and training of those health care facilities that use or employ those respiratory care practitioners to administer intravenous (IV) conscious sedation.

AUTH: 37-1-131, 37-28-104, MCA

IMP: 37-1-131, 37-28-101, 37-28-102, MCA

REASON: The board is adopting New Rule I to reflect current practice within the profession of respiratory care regarding training for administration of IV conscious sedation. The board concluded that this new rule will help ensure that such licensees are adequately trained and work within standards of care.

6. The rule proposed to be repealed is as follows:

24.213.501 INSTITUTIONAL GUIDELINES CONCERNING EDUCATION AND CERTIFICATION - WHEN REQUIRED located at page 24-24535, Administrative Rules of Montana.

AUTH: 37-1-131, 37-28-104, MCA

IMP: 37-28-101, 37-28-102, MCA

REASON: After determining that the provisions in ARM 24.213.501 are almost entirely advisory in nature and therefore, not binding on licensees, the board is proposing to repeal this rule. Because the current rule is open to broad interpretation, the board also notes that the standards are difficult to enforce in a compliance action. The board is repealing this rule and adopting New Rule I, which clearly and succinctly states that RCP licensees are subject to the guidelines and protocols of their employing health facilities.

7. 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 e-mail to [dlibsdrpc@mt.gov](mailto:dlibsdrpc@mt.gov), and must be received no later than 5:00 p.m., October 6, 2014.

8. An electronic copy of this notice of public hearing is available at [www.respcare.mt.gov](http://www.respcare.mt.gov) (department and board's web site). 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 web site accessible at all times, concerned persons should be aware that the web site 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.

9. The board 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 that includes the name, e-mail, and mailing address of the person to receive notices and specifies that the person wishes to receive notices regarding all board administrative rulemaking proceedings or other administrative proceedings. The request must indicate whether e-mail or standard mail is preferred. Such written request may be sent 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](mailto:dlibsdrpc@mt.gov); or made by completing a request form at any rules hearing held by the agency.

10. The bill sponsor contact requirements of 2-4-302, MCA, do not apply.

11. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.213.301, 24.213.402, 24.213.408, 24.213.415, 24.213.504, 24.213.2101, 24.213.2104, 24.213.2107, 24.213.2111, 24.213.2114, and 24.213.2301 will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the adoption of NEW RULE I will not significantly and directly impact small businesses.

With regard to the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.213.501 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination(s) is available upon request to the Board of Respiratory Care Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, facsimile (406) 841-2305, or e-mail [dlibsdrpc@mt.gov](mailto:dlibsdrpc@mt.gov).

12. Anne O'Leary, attorney, has been designated to preside over and conduct this hearing.

BOARD OF RESPIRATORY CARE  
PRACTITIONERS  
MARIA CLEMONS, 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 August 25, 2014