

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

In the matter of the amendment of)
ARM 24.216.502 minimum standards)
for sanitarians and sanitarians in)
training, 24.216.503 examination and)
the adoption of NEW RULE I military)
training or experience)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
ADOPTION

TO: All Concerned Persons

1. On March 11, 2014, at 10:30 a.m., a public hearing will be held in the Large Conference Room, 4th Floor, 301 South Park Avenue, Helena, Montana, to consider the proposed amendment and adoption 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 Sanitarians (board) no later than 5:00 p.m., on February 28, 2014, to advise us of the nature of the accommodation that you need. Please contact Melissa Billman, Board of Sanitarians, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2330; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdsan@mt.gov (board's e-mail).

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

24.216.502 MINIMUM STANDARDS FOR SANITARIANS AND
SANITARIANS IN TRAINING (1) and (2) remain the same.

~~(3) A holder of a current National Environmental Health Association (NEHA) registration, who also has not completed a general microbiology course, is qualified to be a sanitarian in training. A holder of a current NEHA registration, who has taken the required general microbiology course, is qualified to be registered as a sanitarian in the state of Montana.~~

AUTH: 37-1-131, 37-40-203, MCA
IMP: 37-40-302, MCA

REASON: The board determined it is reasonably necessary to strike (3) from this rule, after determining that the National Environmental Health Association (NEHA) credential requirements do not meet or exceed the requirements of the board. The board concluded, therefore, that under 37-1-304, MCA, the board cannot grant licenses to NEHA credential holders, unless they also meet the licensure requirements of the board.

24.216.503 EXAMINATION (1) Except as provided in (6), all applicants must pass an examination approved by the board prior to licensure. Upon approval of the application set forth in ARM 24.216.501 and 24.216.506, unless the applicant has already passed the examination as provided in (7), the applicant shall submit an examination fee and make an appointment with the board office to sit for the written examination within 30 days of the application approval, or once the applicant receives an admissions letter from the board office, the applicant shall submit the examination fee and schedule a time to sit for the written examination with the vendor testing service within 30 days of the application approval. Examination candidates must present photo identification prior to being admitted to the examination pay the examination fee and make arrangements to take the examination approved by the board. Examination candidates are responsible for complying with any requirements of the testing agency.

(2) through (5) remain the same.

(6) A sanitarian in training is subject to examination rules set forth in ARM 24.216.2103 24.216.506.

(7) An applicant who provides proof the applicant has already achieved the score provided in (2) on the board-approved examination is not required to retake the examination.

AUTH: 37-1-131, 37-40-203, MCA

IMP: 37-1-131, 37-40-302, MCA

REASON: The board determined it is reasonably necessary to amend (1) to reflect changes in the way the board's examination is currently administered, since most applicants no longer take the examination at the board office. The board is amending (6) to reflect the correct location of the sanitarian-in-training rule, which was renumbered from ARM 24.216.2103 to ARM 24.216.506 in May of 2011.

The board is adding (7) to allow a person who has already met or exceeded the minimum passing score on the board-approved examination to use their prior passing score to satisfy the board's examination requirement. The board concluded that requiring applicants who already passed the examination to retake it would not significantly enhance applicants' competence or promote the board's mission to protect the health, safety, and welfare of the public.

4. The proposed new rule provides as follows:

NEW RULE I MILITARY TRAINING OR EXPERIENCE (1) Pursuant to 37-1-145, MCA, the board shall accept relevant military training, service, or education for consideration toward the requirements for licensure as registered sanitarians and sanitarians in training.

(2) Relevant military training, service, or education must be completed by an applicant while a member of either:

- (a) United States Armed Forces;
- (b) United States Reserves;
- (c) state national guard; or
- (d) military reserves.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as registered sanitarians and sanitarians in training. At a minimum, satisfactory evidence shall include:

(a) a copy of the applicant's military discharge document (DD 214);

(b) a document that clearly shows all relevant training, certification, service, or education the applicant received while in the military, including dates of training and completion or graduation; and

(c) any other documentation as required by the board.

(4) The board shall consider all documentation received to determine whether an applicant's military training, service, or education is equivalent to relevant licensure requirements.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: The 2013 Montana Legislature enacted House Bill 259 and Senate Bill 183, acts requiring the professional and occupational licensing boards and programs to accept satisfactory evidence of relevant military education, training, or service to satisfy licensing or certification requirements. The bill was signed by the Governor and became effective on April 26, 2013, and is codified at 37-1-145, MCA.

The new statute requires each licensing board and program to adopt rules providing that certification or licensure requirements of the board or program may be met by relevant military training, service, or education, completed as a member of the armed forces or reserves of the United States, a state's national guard, or the military reserves. In consulting with the bill sponsors regarding the rulemaking, it was clarified that the sponsor received input on the bill draft from Montana military personnel and the U.S. Department of Defense. The sponsor was assured that the bill language, as reflected in this proposed rule, is intended to include relevant military training, service, or education received while serving in all branches of the military and reserves, including the U.S. Coast Guard. It is reasonably necessary for the board to adopt New Rule I to coincide with and further implement the legislation.

5. 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 Sanitarians, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdsan@mt.gov, and must be received no later than 5:00 p.m., March 14, 2014.

6. An electronic copy of this notice of public hearing is available at www.sanitarian.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.

7. 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 Sanitarians, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdsan@mt.gov; or made by completing a request form at any rules hearing held by the agency.

8. The bill sponsor contact requirements of 2-4-302, MCA, apply and have been fulfilled. The primary bill sponsors were contacted on December 16, 2013, by electronic mail.

9. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.216.502 and 24.216.503 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.

Documentation of the board's above-stated determinations are available upon request to the Board of Sanitarians, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2330; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdsan@mt.gov (board's e-mail).

10. Don Harris, attorney, has been designated to preside over and conduct this hearing.

BOARD OF SANITARIANS
JIM ZABROCKI, RS, CHAIRPERSON

/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 February 3, 2014