

BEFORE THE BOARD OF SPEECH-LANGUAGE PATHOLOGISTS
AND AUDIOLOGISTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.222.401 fees)

TO: All Concerned Persons

1. On November 6, 2014, the Board of Speech-Language Pathologists and Audiologists (board) published MAR Notice No. 24-222-25 regarding the public hearing on the proposed amendment of the above-stated rule, at page 2736 of the 2014 Montana Administrative Register, Issue No. 21.

2. On December 1, 2014, a public hearing was held in Helena on the proposed amendment of the above-stated rule. Several comments were received by the December 5, 2014, comment deadline.

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

COMMENT 1: Several commenters opposed the proposed fee increases, asserting that if increased as proposed, Montana would be tied as having the second highest fees among 39 of the United States. The commenters stated that such high fees will not correlate with the low compensation of Montana speech-language pathologists and audiologists, and will result in new graduates leaving the state and more difficulty in recruitment from out of state. The commenters asserted the new fees will be a burden on licensees and Montana employers of speech-language pathologists, especially school districts, and rural districts will continue to suffer a lack of speech-language pathologists.

RESPONSE 1: The board is statutorily required to set and maintain licensure fees that are commensurate with associated board costs. Licensure fees are directly impacted by the number of licensees a board regulates, so boards with fewer licensees generally charge higher fees and boards with more licensees may charge lower licensure fees.

The board understands the concerns that licensees have with increased renewal and application fees. However, whether an employer elects to pay the licensing fees of its employees is at the employer's discretion. The board determined that the proposed fees are the minimum increases to maintain board operations and avoid another increase in the near future.

All licensing boards are statutorily mandated by 37-1-134, MCA, to set board fees commensurate with the actual costs of licensure and regulation of its licensees. The only method for generating revenue for operations is through application and renewal fees. The board cannot set fees according to inflation, state of the economy, cost of living, current salaries of licensees, graduate debt load, or national

fee averages. Further, roughly 47 percent of the board's budget is a fixed cost allocation to the board for department-provided computer systems, web site support, staff salaries, and phone and mail services.

COMMENT 2: Commenters questioned how the board intends to utilize the additional revenue from the proposed fee increases and asserted that "program costs," as stated in the proposal notice, is vague.

RESPONSE 2: The department is required to biennially 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 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. It is impossible to provide a detailed plan of the board's future spending patterns, since costs increase and consistently change.

COMMENT 3: Several commenters opposed the fee increase and stated that Montana's fees should be commensurate with the national average of about \$105.

RESPONSE 3: See RESPONSE 1.

COMMENT 4: Commenters opposed the fee increase and requested the board consider other cost-saving measures first.

RESPONSE 4: The board and the department continually seek and implement ways to reduce costs associated with board functions, and both welcome input from the public. Examples of current cost-saving processes include using electronic board books instead of paper ones, holding board meetings by telephone conference instead of in-person attendance, reducing or eliminating travel opportunities for board and staff, and transmitting board materials electronically. Additionally, the department provides standardized application and complaint processing to all boards, which results in consistency and overall cost savings among the boards.

COMMENT 5: One commenter stated that the timing of the rule change was the "worst possible" and resulted in less input and participation at the rules hearing.

RESPONSE 5: The board has fully complied with all the requirements for rulemaking in the Montana Administrative Procedure Act (Title 2, chapter 4, MCA), including provisions for publication, timelines, public participation, and opportunity for comment. It is necessary to proceed with the increase now, so the new fees will be in place for the 2015 renewal cycle.

Further, the board points out that the hearing is but one of several avenues for the public to provide input and comment on rule changes. The public can provide comments through regular mail, e-mail, and fax. Department staff conducts the hearings and the board does not attend them. However, the board does consider

and respond to all timely received comments, regardless of how the comments were submitted.

COMMENT 6: One commenter opposed the fee increases, but suggested that higher fees might be justified if MSHA (Montana Speech-Language and Hearing Association) advocated more for higher Montana salaries, and offered more scholarships and cheaper continuing education opportunities for licensees.

RESPONSE 6: Licensing boards and professional associations have distinctly separate goals and purposes. State legislatures create licensing boards to license and regulate qualified individuals to practice safely in a profession, solely for the protection of the public. Professional associations promote and advocate for the success of specific professions. The entities have separate functions and the fees for one do not impact the other. Also see RESPONSE 1.

COMMENT 7: One commenter asserted that higher licensure fees will decrease the ability of women to maintain licensure when choosing not to work.

RESPONSE 7: See RESPONSE 1.

4. The board has amended ARM 24.222.401 exactly as proposed.

BOARD OF SPEECH-LANGUAGE
PATHOLOGISTS
AND AUDIOLOGISTS
LYNN HARRIS, AuD, CHAIR

/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 December 15, 2014