

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY  
STATE OF MONTANA

In the matter of the adoption of NEW ) NOTICE OF PUBLIC HEARING  
RULE I pertaining to licensee lookup ) ON PROPOSED ADOPTION  
database )

TO: All Concerned Persons

1. On February 19, 2009, at 9:00 a.m., a public hearing will be held in room 439, 301 South Park Avenue, Helena, Montana to consider the proposed adoption of the above-stated rule.

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 department no later than 5:00 p.m., on February 13, 2009, to advise us of the nature of the accommodation that you need. Please contact Darcee L. Moe, Business Standards Division, Department of Labor and Industry, P.O. Box 200513, Helena, MT 59620-0513; telephone (406) 841-2327; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2313; or e-mail at damoe@mt.gov.

3. The proposed new rule provides as follows:

NEW RULE I POSTING DISCIPLINARY ORDERS ON LICENSEE LOOKUP DATABASE (1) Unless the exceptions in (2) and (3) are applicable, any final order imposing a sanction against a professional or occupational license holder that is based on competence to practice issues or based on an allegation that generally or specifically is a violation of law or regulation, is a "disciplinary action" that must be published and noted on the licensee lookup.

(2) If a final order is based only upon a failure to file or complete in a timely manner a minor administrative requirement that is in rule or law, the order affecting the licensee is not a "disciplinary action" for the purposes of publication and notice on the licensee lookup.

(3) A final order of license denial based solely upon an applicant's failure to meet minimum licensure qualifications and not based on competence to practice issues or involving the applicant's past disciplinary or legal actions is not a "disciplinary action" for the purposes of publication and notice on the licensee lookup.

AUTH: 37-1-101, MCA  
IMP: 37-1-311, 37-1-405, MCA

REASON: The 2007 Montana Legislature enacted Chapter 225, Laws of 2007 (Senate Bill 453), an act creating a uniform framework to inform the public of matters before the boards and programs of the department with respect to disciplinary

proceedings. The bill was signed by the Governor on April 17, 2007, and became effective on January 1, 2009.

The department, following consultation with the bill's sponsor, has determined it is reasonable and necessary to adopt this new rule to implement the legislation. The new rule clarifies the definition of "disciplinary action" to adequately inform the public and licensees exactly what actions are required to be publically posted via the online licensee lookup system.

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: Department of Labor and Industry, Business Standards Division, Attn: Darcee L. Moe, P.O. Box 200513, Helena, Montana 59620-0513; by facsimile to (406) 841-2313; or by e-mail to [damoe@mt.gov](mailto:damoe@mt.gov), and must be received no later than 5:00 p.m., February 27, 2009.

5. An electronic copy of this Notice of Public Hearing is available through the department's web site at <http://dli.mt.gov/events/calendar.asp>, under the Calendar of Events, Administrative Rules Hearings Section. The department strives to make the electronic copy of this Notice of Public Hearing 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 a person's difficulties in sending an e-mail do not excuse late submission of comments.

6. The department maintains a list of interested persons who wish to receive notices of rulemaking actions proposed by the department. 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 the person wishes to receive notices regarding all department 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 Department of Labor and Industry, Business Standards Division, Attn: Darcee L. Moe, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, faxed to the office at (406) 841-2313, e-mailed to [damoe@mt.gov](mailto:damoe@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. The bill sponsor was notified by U.S. mail on September 24, 2008.

8. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

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

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

Certified to the Secretary of State January 20, 2009