

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

In the matter of the amendment of	)	NOTICE OF AMENDMENT,
ARM 24.126.411 patient records	)	ADOPTION, AND REPEAL
retention, 24.126.2103 continuing	)	
education requirements, 24.126.2105	)	
approved continuing education, and	)	
24.126.2301 unprofessional conduct,	)	
adoption of NEW RULE I sexual	)	
relations with a patient and sexual	)	
misconduct, and repeal of 24.126.405	)	
board meetings, 24.126.406 record of	)	
minutes and hearings, and	)	
24.126.2101 renewals	)	

TO: All Concerned Persons

1. On February 19, 2016, the Board of Chiropractors (board) published MAR Notice No. 24-126-35 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 270 of the 2016 Montana Administrative Register, Issue No. 4.

2. On March 11, 2016, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Two comments were received by the March 18, 2016, deadline.

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

COMMENT 1: One commenter opposed the proposed amendment to ARM 24.126.411 to increase licensee record retention from five to seven years. The commenter stated that the Board of Medical Examiners does not have such a time period in their statutes or rules. Further, the commenter did not follow the board's reasoning for the change and questioned the last time Medicaid record retention changed.

RESPONSE 1: The board is making the change from five to seven years to address licensee questions and so licensees will not have to deal with unintentional conflicts between federal and board retention requirements. The board notes that each board promulgates rules under separate and individual rulemaking authority, and there is no requirement to have identical standards.

COMMENT 2: One commenter stated the board should retain (1)(b) of ARM 24.126.2301 and not adopt NEW RULE I. The commenter expressed concern that not all chiropractors terminate patient relationships in writing, and neither do they

keep such records permanently. The commenter noted that neither the Board of Medical Examiners nor the Board of Physical Therapy Examiners has these requirements, and suggested this board should not, either.

RESPONSE 2: The board proposed these changes to address ambiguities in the rules that caused difficulty in prosecuting sexual misconduct disciplinary cases. The board concluded that permanent maintenance of this one type of document will not be unduly burdensome on licensees. Boards are under no obligation to have similar retention requirements.

4. The board has amended ARM 24.126.411, 24.126.2103, 24.126.2105, and 24.126.2301 exactly as proposed.

5. The board has adopted NEW RULE I (24.126.2304) exactly as proposed.

6. The board has repealed ARM 24.126.405, 24.126.406, and 24.126.2101 exactly as proposed.

BOARD OF CHIROPRACTORS  
LEE HUDSON, DC, PRESIDENT

/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 April 11, 2016