

BEFORE THE BOARD OF OCCUPATIONAL THERAPY PRACTICE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.165.302 definitions,) PROPOSED AMENDMENT
24.165.401 fees, and 24.165.2101)
continuing education)

TO: All Concerned Persons

1. On September 26, 2016, at 1:00 p.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 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 Occupational Therapy Practice (board) no later than 5:00 p.m., on September 19, 2016, to advise us of the nature of the accommodation that you need. Please contact Dennis Clark, Board of Occupational Therapy Practice, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdotp@mt.gov (board's e-mail).

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

24.165.302 DEFINITIONS For the purpose of this chapter the following definitions apply:

(1) and (2) remain the same.

(3) "Nonroutine application" means an application for occupational therapist or occupational therapy assistant licensure that is considered nonroutine either by ARM 24.101.402 or these rules. Nonroutine applications require board review and approval prior to issuance of the license if the application shows:

(a) the applicant has a prior felony conviction of any nature or a prior misdemeanor conviction relating to sex, drugs, or violence. Any disposition in a criminal case other than acquittal will be deemed a "conviction" for purposes of this rule without regard to the nature of the plea or whether the applicant received a suspended or deferred sentence;

(b) the applicant has had two or more alcohol-related convictions over any period of time, or has had one alcohol-related conviction within the past five years;

(c) the applicant's health care professional license was disciplined or was voluntarily surrendered in this state or another state or jurisdiction; or

(d) any substantive irregularity deemed by department staff to warrant board review and approval prior to issuance of the license.

(3) through (5) remain the same but are renumbered (4) through (6).

AUTH: 37-24-201, 37-24-202, MCA
IMP: 37-1-101, 37-24-103, 37-24-105, 37-24-106, 37-24-107, 37-24-108,
MCA

REASON: Per 37-1-101, MCA, department staff can issue and renew routine licenses on behalf of the boards. The board is amending this rule to add the definition of nonroutine application to clarify which applications need full board review and which can be processed by application staff. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.165.401 FEES (1) Fees adopted by the board under 37-24-310, MCA, are as follows:

- (a) Applications for licensure
 - (i) registered occupational therapist \$~~440~~ 190
 - (ii) certified occupational therapist assistant ~~440~~ 190
 - ~~(b) Initial license issuance~~
 - ~~(i) registered occupational therapist~~ ~~80~~
 - ~~(ii) certified occupational therapist assistant~~ ~~80~~
 - (c) through (f) remain the same but are renumbered (b) through (e).
 - (f) Inactive to active status 60
- (2) and (3) remain the same.

AUTH: 37-1-131, 37-1-134, 37-24-201, 37-24-202, 37-24-310, MCA
IMP: 37-1-134, 37-1-141, 37-24-306, 37-24-310, MCA

REASON: The board determined it is reasonably necessary to combine the initial license fee and application fee to alleviate confusion among applicants and licensing staff regarding the total fee required for license issuance. The board notes that this is not a fee increase, but simply a combination of two existing application fees.

To address questions from staff and licensees, the board is also amending this rule to provide the fee to convert from inactive to active licensure, as per ARM 24.101.403. The board notes that while this is not a new fee, it was not previously set forth in rule. Authority citations are being amended for accuracy and to reflect the full statutory authority of the board to promulgate rules.

24.165.2101 CONTINUING EDUCATION (1) through (4) remain the same.

(5) The board shall accept any continuing education offered or approved by the Montana Occupational Therapy Association, the American Occupational Therapy Association, the American Society of Hand Therapists, the National Board for Certification in Occupational Therapy (NBCOT), or the American Journal of Occupational Therapy.

(6) The board recognizes the maintenance of current NBCOT certification as fulfilling the continuing education requirements of this rule.

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

(8) All Internet courses must meet the same criteria as in-person continuing education courses.

AUTH: 37-1-131, 37-1-319, 37-24-202, MCA
IMP: 37-1-131, 37-1-306, 37-1-319, MCA

REASON: The board is amending (5) to align with ARM 24.165.509 where the board already accepts NBCOT approved or sponsored courses of instruction in modalities. The board also decided to add new (6) and accept current NBCOT certification as meeting the continuing education requirements after determining that NBCOT certification exceeds the board's continuing education hourly requirements in (1) of this rule. Lastly, the board is adding (8) to address licensee and staff questions by clarifying that online continuing education courses must meet the same standards as in-person courses. The amendments will further clarify requirements and assist the auditing unit during the annual continuing education audit.

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 the Board of Occupational Therapy Practice, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdotp@mt.gov, and must be received no later than 5:00 p.m., September 30, 2016.

5. An electronic copy of this notice of public hearing is available at www.ot.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.

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

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

8. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.165.302, 24.165.401, and 24.165.2101 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Occupational Therapy Practice, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2390; facsimile (406) 841-2305; or e-mail dlibsdotp@mt.gov.

9. Dennis Clark, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF OCCUPATIONAL THERAPY
PRACTICE
NATE NAPRSTEK, 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 22, 2016