

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.201.502 accounting and)
auditing experience requirements,)
24.201.516 granting of examination)
credit, 24.201.723 records,)
24.201.2106 basic continuing)
education requirement, and)
24.201.2138 credit for service as)
lecturer, instructor, technical reviewer,)
speaker, or report reviewer)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On March 13, 2020, at 9:00 a.m., a public hearing will be held in the Small Conference Room, 301 South Park Avenue, 4th Floor, 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 Public Accountants no later than 5:00 p.m., on March 6, 2020, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdpac@mt.gov (board's e-mail).

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

24.201.502 ACCOUNTING AND AUDITING EXPERIENCE
REQUIREMENTS (1) To be issued a license, an applicant must provide evidence of acceptable accounting and/or auditing experience.

(2) Acceptable ~~accounting and auditing~~ experience is performing accounting and/or auditing functions ordinarily required in the practice of public accounting, provided this experience:

(a) is attested to by:

(i) ~~a holder of a permit to practice that~~ U.S. CPA whose license was active and current at the time of attestation; or

(ii) ~~under the supervision or direction of~~ a fully licensed individual from a professional accounting body with a MRA with NASBA and the AICPA who supervises or directs the applicant; or

- (b) for military experience is evaluated by the board for military experience based on information provided by the applicant's commanding officer; and
(b) and (c) remain the same but are renumbered (c) and (d).
(3) If the attester is not the applicant's supervisor, the attester must:
(a) be familiar with the applicant's work and provide a narrative of the step taken to determine the work experience meets professional standards;
(b) provide an explanation of how the attested hours were verified; and
(c) confirm the hours and work product with the applicant's supervisor.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-302, 37-50-325, MCA

REASON: The board is amending this rule to clarify that the experience to qualify for a CPA license can be obtained from accounting and/or auditing experience. Some applicants have misinterpreted the current rule to understand that both accounting and auditing experience were required to qualify. The board does not require both audit and accounting experience and is amending the rule to specify that applicants may use audit only, accounting only, or any combination of experience to qualify for a license.

The board is amending (2)(a) to update antiquated license types that attest to an applicant's experience and clarify that a MRA licensee must supervise and direct an applicant's work. While these are current requirements, the board concluded that clarification is needed to address confusion among current applicants.

The board determined it is reasonably necessary to add (3) and formalize guidance the board has provided to non-supervisor experience attesters. Attesters must explain how they verified the applicant's hours and work product. License applicants and non-supervisor attesters are often confused about the steps required to attest to experience when the attester is not the applicant's supervisor, and this has delayed application approvals.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.201.516 GRANTING OF EXAMINATION CREDIT (1) remains the same.

(2) All test sections must be passed within an 18-month period, which begins on the date the first test section that was passed was taken, and ends on the last day of the last month of that 18-month period.

(a) An examination candidate may take any section of the examination up to four times during a one-year period but cannot retake any failed test section in any one three-month testing period.

(b) If the board determines that the examination system changes necessary to eliminate the three-month testing period limitations have been implemented, (a) will no longer be effective and a candidate can retake a test section once their scores for any previous attempt of that same test section have been released.

(3) In the event all test sections are not passed in an 18-month period, credit for any test section passed outside the 18-month period will expire and that test section must be retaken.

(3) remains the same but is renumbered (4).

AUTH: 37-50-204, MCA

IMP: 37-50-204, 37-50-302, ~~37-50-303~~, MCA

REASON: The board is amending this rule regarding the 18-month period to pass all parts of the exam. Because the timeframe currently differs in many states, the board concluded that this amendment will aid in reciprocity and remove potential barriers for Montana exam candidates and current licensees in obtaining licenses in other states.

The board is adding (2)(b) to specify that if the examination providers implement the necessary changes to allow for continuous testing, the board would eliminate the limitation of testing once in a three-month testing window. This would allow greater flexibility for exam candidates. This amendment is being proposed now as an initiative to get a majority, if not all states changed to continuous testing by July 1, 2020. Implementation citations are being amended to delete a reference to a repealed statute.

24.201.723 RECORDS (1) and (2) remain the same.

(3) Retention by a firm, licensee, or practice privilege holder of client records after a demand is made for them is an act discreditable to the profession ~~in violation of ARM 24.201.707.~~

(4) remains the same.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-325, MCA

REASON: The board is amending (3) to delete a repealed rule reference.

24.201.2106 BASIC CONTINUING EDUCATION REQUIREMENT

(1) through (3) remain the same.

(4) ~~Applicants for a license~~ New licensees must meet the basic requirement of CPE by December 31 of the third year following the year of the initial issuance of the Montana license. CPE completed during the initial licensing year does not accrue toward the first reporting period (example: If an individual received their initial license in ~~2017~~ 2020, they must meet the basic CPE requirement by ~~December 31, 2020~~ between January 1, 2021 and December 31, 2023).

(5) and (6) remain the same.

AUTH: 37-1-319, ~~37-50-201~~, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, MCA

REASON: The board is amending (4) to clarify the timeframe for new licensees to complete their initial CPE requirement by specifying that any CPE completed during the initial year of licensing does not carry forward to the first three-year reporting period. Initial licensees have expressed confusion regarding their initial reporting period and many question if hours completed during their initial licensing year may be carried forward.

Authority citations are being amended to accurately reflect all statutes implemented through the rule.

24.201.2138 CREDIT FOR SERVICE AS LECTURER, INSTRUCTOR, TECHNICAL REVIEWER, SPEAKER, OR REPORT REVIEWER (1) Lecturers, instructors, and speakers may claim continuing education credit for both preparation and presentation time for a course once during a three-year reporting period only to the extent the activities maintain or increase their professional competence and qualify for continuing education credit for participants. Credit may be claimed for actual course presentation time and for preparation time up to two times the class credit hours once in any rolling three-year period. The maximum credit for such preparation and teaching shall not exceed 50 percent (or 60 hours) of the basic requirement in any rolling three-year period.

(2) and (3) remain the same.

AUTH: 37-1-319, ~~37-50-201~~, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, ~~37-50-314~~, MCA

REASON: The board is amending this rule to clarify that instructors are limited to earning CPE credit for preparation and teaching a course once during a three-year reporting period. Instructors have been confused about their ability to claim CPE credit for a single course taught multiple times. The board's intent was always to allow instructors to receive credit for preparation and presentation time for a course only once during a reporting period and this amendment will more clearly express that intent.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2244, or e-mail to dlibsdpac@mt.gov, and must be received no later than 5:00 p.m., March 13, 2020.

5. An electronic copy of this notice of public hearing is available at publicaccountant.mt.gov (department and board's web site). Although the department strives to keep its web sites accessible at all times, concerned persons should be aware that web sites may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing a web site 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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdpac@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. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.201.502, 24.201.516, 24.201.723, 24.201.2106, and 24.201.2138 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; facsimile (406) 841-2305; or to dlibsdpac@mt.gov.

9. Grace Berger, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PUBLIC ACCOUNTANTS
RANETTA JONES, CPA
PRESIDING OFFICER

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

/s/ THOMAS K. LOPACH
Thomas K. Lopach, Interim Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State February 4, 2020.