

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

In the matter of the amendment of) NOTICE OF AMENDMENT
ARM 24.174.701 pharmacy technician)
registration requirements, 24.174.711)
ratio of pharmacy technicians and)
interns to supervising pharmacists,)
and 24.174.712 application for)
approval of utilization plan)

TO: All Concerned Persons

1. On January 14, 2022, the Board of Pharmacy (board) published MAR Notice No. 24-174-78 pertaining to the public hearing on the proposed amendment of the above-stated rules at page 32 of the 2022 Montana Administrative Register, Issue Number 1.

2. On February 4, 2022, a public hearing was held on the proposed amendment of the above-stated rules via videoconference and telephonic platform. Five comments were received by the February 11, 2022, deadline.

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

COMMENT #1: Several commenters offered general support for the proposed rule changes.

RESPONSE #1: The board appreciates all comments received during the rulemaking process.

COMMENT #2: Several commenters stated that requiring in ARM 24.174.712(1) that a pharmacy's pharmacist-in-charge submit a technician utilization plan for approval, including updates, would be inefficient and may reduce and/or impact consistency between pharmacies. The commenters requested the board amend the rule to allow a corporation to collaborate with their pharmacists-in-charge to ensure the technician utilization plan is submitted on behalf of all the locations in the state.

RESPONSE #2: The board concluded that changing the party responsible for submitting technician utilization plan(s) would be a substantive change that cannot be accomplished in a final notice. The board appreciates the consideration for administrative consistency but intends for the amendment to focus on the responsibilities of the pharmacist-in-charge for each location to better ensure their awareness, and their staff's awareness, of the provisions outlined in the technician utilization plan. The board will provide outreach and education to licensees regarding the requirement and will work with corporate and similar staff on

implementation procedures. The board may consider such potential changes in future rulemaking discussions.

COMMENT #3: Numerous commenters expressed support for the board taking action to address pharmacy staffing issues to improve a patient's access to vaccines, including the use of other health care licensees to assist pharmacists in vaccine administration when those licensees are authorized to administer vaccines under their own scope of practice.

RESPONSE #3: The board appreciates all comments received during the rulemaking process.

COMMENT #4: Numerous commenters expressed support for pharmacists' authority to order and administer vaccines independently, without a collaborative pharmacy practice agreement with a prescriber, as defined in 37-7-105, MCA.

RESPONSE #4: The board appreciates all comments received during the rulemaking process. Regarding the commenters' description of state-authorized vaccine authority as defined in 37-7-105, MCA, the board clarifies that currently there is also additional federal authority for pharmacists to order and administer COVID-19 vaccines and tests, and other vaccines, as authorized in the Public Readiness and Emergency Preparedness Act (PREP Act) and corresponding PREP Act amendments.

COMMENT #5: Numerous commenters expressed ongoing support for pharmacists to order and/or administer vaccines pursuant to a collaborative pharmacy practice agreement with a prescriber(s).

RESPONSE #5: The board appreciates all comments received during the rulemaking process, but the comments are outside the scope of the proposed rule notice.

4. The board has amended ARM 24.174.701, 24.174.711, and 24.174.712 exactly as proposed.

BOARD OF PHARMACY
TONY KING, RPh
PRESIDENT

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

/s/ LAURIE ESAU
Laurie Esau, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State March 15, 2022.