

BEFORE THE BOARD OF CLINICAL LABORATORY SCIENCE PRACTITIONERS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.129.401 fees, 24.129.610) PROPOSED AMENDMENT
inactive status, and 24.129.2101)
continuing education requirements)

TO: All Concerned Persons

1. On October 30, 2018, at 10:00 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 Clinical Laboratory Science Practitioners (board) no later than 5:00 p.m., on October 23, 2018, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Clinical Laboratory Science Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdcsls@mt.gov (board's e-mail).

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

24.129.401 FEES (1) through (2)(e) remain the same.
(f) reactivation of license fee – difference between active and inactive fee 35
(g) remains the same.

AUTH: 37-1-131, 37-1-134, ~~37-1-319~~, 37-34-201, MCA
IMP: 37-1-134, 37-1-141, 37-34-305, MCA

REASON: During a review of the rules, department staff discovered that the board's reactivation of license fee is not in compliance with ARM 24.101.403(1)(h), the rule containing all uniform administrative fees. The board determined it is reasonably necessary to amend this rule to align with standardized renewal procedures and address questions by both department staff and renewal applicants. The board estimates that the proposed fee change will affect approximately 40 inactive licensees and result in \$600 in additional annual revenue.

Authority citations are being amended to provide the complete sources of the board's rulemaking authority.

24.129.610 INACTIVE STATUS (1) and (2) remain the same.

(3) With annual renewal, and payment of the required fee in accordance with ARM 24.129.401, a licensee may remain on inactive status. ~~Failure to renew an inactive status license will result in forfeiture of the license.~~

(4) remains the same.

AUTH: 37-1-131, 37-1-134, 37-1-319, ~~37-34-201~~, MCA

IMP: 37-1-131, 37-1-134, 37-1-141, 37-1-319, ~~37-34-201~~, MCA

REASON: The board is amending (3) as it conflicts with standardized department renewal procedures, which govern renewal processes for all professional and occupational licensing boards.

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.

24.129.2101 CONTINUING EDUCATION REQUIREMENTS (1) ~~All applicants for renewal of an active status license shall have completed continuing education as provided in this rule as a condition to establish eligibility for renewal. Licensees shall affirm an understanding of their recurring duty to comply with continuing education (CE) requirements as a part of license renewal. The continuing education requirement will~~ CE requirements do not apply until the licensee's first full year of licensure.

~~(a) (2) Fourteen hours of continuing education will be required~~ Licensees shall obtain 14 hours of CE annually for renewal of a license.

~~(b) All continuing education credits must be germane to the profession and must contribute to the professional competence of a clinical laboratory science practitioner.~~

~~(2) Continuing education may be obtained in any of the following settings, and subject to any listed conditions:~~

~~(a) Any continuing education offered by providers and approved by the board and listed in the board office or on the board web site.~~

(3) The board/staff will not preapprove CE programs or sponsors; however, a suggested list of courses/providers can be found on the board's web site. It is the responsibility of the licensee to select quality programs that:

(a) contribute to the licensee's knowledge and professional competence;

(b) contain significant intellectual or practical content; and

(c) are germane to the profession of a clinical laboratory science practitioner.

(4) The licensee is responsible for maintaining:

(a) proof of attendance/certificate of completion;

(b) title/subject of course;

(c) duration of course;

(d) date credits were earned; and

(e) course provider and/or speaker.

~~(b) (5) College course work, approved by the board, which is germane to the profession and contributes directly to the professional competence of a clinical laboratory science practitioner, and which meets the criteria in (3), is subject to the following limitations:~~

(i) (a) the licensee must pass the course;
(ii) (b) one semester credit shall equal 15 hours of ~~continuing education~~ CE;
(iii) (c) one quarter credit shall equal 10 hours of ~~continuing education~~ CE.
~~(c) Continuing education not referenced in (2)(a) shall be submitted to the board for its consideration for approval.~~

~~(3) (6) Continuing education CE credits can be earned by teaching courses that are germane to the profession. Credit units may be applied in this category based on a report by the licensee. For a one-hour presentation, the presenter will be awarded two hours of continuing education CE. The following limitations shall apply to requests for credit under this section:~~

~~(a) and (b) remain the same.~~

~~(c) instruction of any course may be submitted for continuing education CE only once;~~

~~(d) remains the same.~~

~~(7) The board may randomly audit up to 50 percent of renewed licensees' CE hours.~~

~~(8) Licensees found to be in noncompliance with CE requirements may be subject to administrative suspension.~~

AUTH: 37-1-319, ~~37-34-201~~, MCA

IMP: 37-1-306, 37-1-319, 37-1-321, MCA

REASON: The board is reorganizing and reformatting this rule to address questions and confusion among licensees and department staff. Further amendments will simplify continuing education (CE) requirements and the reporting processes. The board anticipates that the changes will result in CE being more accessible and less restrictive than the current requirements.

Following a recommendation by department legal staff, the board is amending (1) to align the affirmation of CE requirements at renewal with the provisions of 37-1-306, MCA. The amendments align with standardized department procedures that licensees with mandatory CE affirm an understanding of their CE requirements, as part of a complete renewal application, instead of affirming CE completion.

The board is amending this rule to eliminate board preapproval of CE courses and providers. The board determined that the preapproval process is confusing and cumbersome for both licensees and the board. Further, late approval or denial of a provider often results in licensees scrambling to obtain CE prior to renewal. The new process will place the responsibility on the licensee to select appropriate CE courses within the guidelines established in board rule.

The board is adding (7) to allow flexibility in conducting random CE audits. This amendment will allow the board to respond to staffing and budget issues by adjusting the number of licensees audited, while remaining consistent with the statutory maximum of 50 percent in 37-1-306, MCA.

The board is clarifying in (8) that licensees not in compliance with CE may be subject to administrative suspension per 37-1-321, MCA, and in accordance with standardized department audit processes.

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 Clinical Laboratory Science Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdcsls@mt.gov, and must be received no later than 5:00 p.m., November 2, 2018.

5. An electronic copy of this notice of public hearing is available at cls.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 Clinical Laboratory Science Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdcsls@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 24.129.401, 24.129.610, and 24.129.2101 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Clinical Laboratory Science Practitioners, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2395; facsimile (406) 841-2305; or to dlibsdcsls@mt.gov.

9. Sara Hansen-Baiamonte, board counsel, has been designated to preside over and conduct this hearing.

BOARD OF CLINICAL LABORATORY
SCIENCE PRACTITIONERS
VICKI RICE, CHAIRPERSON

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

/s/ GALEN HOLLENBAUGH
Galen Hollenbaugh, Commissioner
DEPARTMENT OF LABOR AND INDUSTRY

Certified to the Secretary of State September 25, 2018.