

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

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.126.401 fees, 24.126.402)	PROPOSED AMENDMENT
fee abatement, 24.126.501)	
applications, 24.126.502 military)	
training or experience, 24.126.504)	
license by examination, 24.126.507)	
temporary permit, 24.126.510 license)	
by endorsement, 24.126.511 display)	
of license, 24.126.701 inactive status)	
and conversion to active status,)	
24.126.704 intern and preceptor)	
registration, 24.126.910 impairment)	
evaluator standards, 24.126.2103)	
continuing education requirements,)	
and 24.126.2105 approved continuing)	
education)	

TO: All Concerned Persons

1. On February 2, 2018, at 10:00 a.m., a public hearing will be held in the Large 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 Chiropractors (board) no later than 5:00 p.m., on January 26, 2018, to advise us of the nature of the accommodation that you need. Please contact Dennis Clark, Board of Chiropractors, 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 dlibsdcchi@mt.gov (board's e-mail).

3. GENERAL REASONABLE NECESSITY STATEMENT: Following an in-depth review of the board's statutes and administrative rules, the board is proposing revisions throughout the rules. Some of the proposed amendments are technical in nature, such as renumbering or amending punctuation within certain rules following amendment and to comply with ARM formatting requirements. Other changes update language and processes to current online application and renewal procedures, delete unnecessary or redundant sections, and amend rules and catchphrases for accuracy, consistency, simplicity, better organization, and ease of use.

Authority and implementation citations are also being amended to accurately reflect all statutes implemented through a rule and provide the complete sources of the board's rulemaking authority. Where additional specific bases for a proposed action exist, the board will identify those reasons immediately following that rule.

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

24.126.401 FEE SCHEDULE

(1) through (5) remain the same.

~~(6) Application fee for student/interns~~ _____ 100

~~(7) Application fee for practitioners~~
~~proposing to serve as preceptors~~ _____ 100

(8) and (9) remain the same but are renumbered (6) and (7).

AUTH: 37-1-134, 37-12-201, MCA

IMP: 37-1-134, 37-1-141, 37-12-201, 37-12-302, 37-12-304, MCA

REASON: Following a determination that the board lacks the statutory authority to issue licenses to interns, the board is amending this rule to conform with the provisions of 37-12-201, MCA, which require the board to have rules to register interns and preceptors. These amendments also align with changes proposed to ARM 24.126.704 in this notice.

The board estimates that the fee changes will affect approximately 14 individuals and result in a \$1,400 decrease in annual revenue.

24.126.402 FEE ABATEMENT (1) The Board of Chiropractors adopts and incorporates by reference the fee abatement rule of the Department of Labor and Industry found at ARM 24.101.301.

~~(2) A copy of ARM 24.101.301 is available by contacting the Board of Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, MT 59620-0513.~~

AUTH: 37-1-131, MCA

IMP: 17-2-302, 17-2-303, 37-1-134, MCA

REASON: It is reasonably necessary to strike the board's mailing address from this rule as the board's full contact information, and a link to the official board rules, are readily available on the board web site.

24.126.501 APPLICATIONS ~~(1) Pursuant to the requirements of 37-12-302, MCA, an application for original license, renewal, examination, temporary permit, or conversion of an inactive license must be made on a form provided by the department and completed and signed by the applicant.~~

~~(2) The application must be accompanied by the appropriate fee(s) and contain sufficient evidence that the applicant possesses the qualifications set forth in Title 37, chapter 12, MCA, and rules promulgated thereunder.~~

~~(3) (1)~~ Applications not completed within one year of submission will be closed and the applicant ~~will have to~~ must reapply.

~~(4) (2)~~ The department shall notify the applicant ~~in writing~~ of the results of its evaluation of the application.

~~(5)~~ All requests for reasonable accommodations under the Americans with Disabilities Act of 1990, 42 USC 12101, et seq., must be made on forms provided by the board and submitted within a reasonable time prior to the date on which the reasonable accommodation is requested.

~~(6)~~ The following must accompany an application:

~~(a)~~ official transcripts sent directly from the appropriate educational institution, including the applicant's chiropractic college which is accredited by the Council on Chiropractic Education (CCE) or another accrediting body that is in good standing with the Council on Chiropractic Education International (CCEI);

~~(b)~~ a certified copy of the national board examination results sent directly from the National Board of Chiropractic Examiners (NBCE) of Parts I and II, Part III, Part IV, and physiotherapy;

~~(c)~~ verification of licensure sent directly from any state in which the applicant has held or holds a license;

~~(d)~~ a copy of a self-query of the National Practitioners' Databank (NPDB) and the Healthcare Integrity Databank (HIPDB); and

~~(e)~~ affidavits regarding the applicant's good moral character from two persons not related to the applicant.

AUTH: 37-1-131, 37-12-201, MCA

IMP: 37-1-131, 37-12-302, 37-12-304, MCA

REASON: The board determined it is reasonably necessary to amend this rule by relocating all specific licensure requirements to ARM 24.126.504 and 24.126.510. Following amendment, this rule will contain only basic provisions regarding the standardized application process.

The board is amending (2) to allow various methods of contacting applicants regarding their applications and further facilitate online licensure processes.

24.126.502 MILITARY TRAINING OR EXPERIENCE (1) and (2) remain the same.

(3) An applicant must submit satisfactory evidence of receiving military training, service, or education that is equivalent to relevant licensure requirements as a chiropractor. ~~At a minimum, satisfactory~~ Satisfactory evidence shall include includes:

~~(a)~~ a copy of the applicant's military discharge document (DD 214 or other discharge documentation);

~~(b)~~ through (4) remain the same.

AUTH: 37-1-145, MCA

IMP: 37-1-145, MCA

REASON: It has come to the department's attention that certain military personnel (Reservists and National Guardsmen who have never been activated) in fact do not receive a DD 214 form upon their discharge from the military. Because the current rule may be interpreted to absolutely require a DD 214 from all applicants who wish to submit evidence of relevant military training, service, or education as part of the licensure process, the department is suggesting the board amend the rule to allow consideration of other evidence of military discharge in addition to or in lieu of a DD 214 form.

24.126.504 LICENSE BY EXAMINATION REQUIREMENTS (1) ~~The board accepts as its approved method of examination the NBCE examination, including Parts I and II, Part III, Part IV, and physiotherapy. In addition, the applicant must pass the state jurisprudence examination with a minimum score of 75 percent. Applicants for chiropractic licensure by examination must apply on forms provided by the department, accompanied by the appropriate fee per ARM 24.126.401, and submit the following:~~

(a) official transcripts sent directly from the educational institution to demonstrate the applicant achieved:

(i) a minimum of a bachelor's degree from an accredited college or university;
and

(ii) graduation from a chiropractic college accredited by the Council on Chiropractic Education (CCE) or another accrediting body in good standing with the Council on Chiropractic Education International (CCEI);

(b) results of the national board examination (Part I, II, III, and IV, and physiotherapy) sent directly from the National Board of Chiropractic Examiners (NBCE);

(c) verification of licensure sent directly from all states in which the applicant has held or holds a license; and

(d) an original, unopened self-query of the National Practitioner Databank (NPDB).

(2) Applicants must also pass the state jurisprudence examination with a minimum score of 75 percent.

AUTH: 37-1-131, 37-12-201, MCA

IMP: 37-1-131, 37-12-304, MCA

REASON: The board is amending this rule and ARM 24.126.510 to clearly set forth the specific requirements for Montana chiropractor licensure by examination and endorsement. These requirements are being relocated from ARM 24.126.501 and reorganized for clarity and ease of use within these two rules.

While the licensure requirements are not new, the board will no longer require affidavits to demonstrate applicants' good moral character. The board concluded that this is adequately proven through an applicant's NPDB self-query and the answers to legal and disciplinary questions on the application.

24.126.507 TEMPORARY PERMIT (1) through (3) remain the same.

(4) A ~~notarized~~ statement consenting to the above conditions shall be signed by both the supervising licensed chiropractor and the applicant, and filed with the department.

(5) remains the same.

AUTH: 37-1-131, 37-1-319, ~~37-12-201~~, MCA

IMP: 37-1-131, 37-1-319, 37-1-305, MCA

REASON: The board is amending this rule to remove the requirement for a notarized statement to align with standardized department licensure procedures and further facilitate the online application process.

24.126.510 LICENSE BY ENDORSEMENT (1) In order to receive a license by endorsement, license applicants shall provide proof of equal licensure requirements from the state where the license applicant holds a current, active license. In instances where the applicant cannot demonstrate equal credentials, the applicant may obtain a license upon successful passage of the SPEC examination administered by the NBCE. All applications by endorsement are reviewed by the board on a case-by-case basis. The board will issue a chiropractic license to applicants licensed in another state upon determining that the other state's license standards are substantially equal to or greater than Montana's.

(2) Applicants for chiropractic licensure by endorsement must apply on forms provided by the department, accompanied by the appropriate fee, and submit the following:

(a) official transcripts sent directly from the educational institution to demonstrate the applicant achieved:

(i) a minimum of a bachelor's degree from an accredited college or university; and

(ii) graduation from a chiropractic college accredited by the Council on Chiropractic Education (CCE) or another accrediting body in good standing with the Council on Chiropractic Education International (CCEI);

(b) results of the national board examination (Part I, II, III, and IV, and physiotherapy) sent directly from the National Board of Chiropractic Examiners (NBCE);

(c) verification of licensure sent directly from all states in which the applicant has held or holds a license; and

(d) an original, unopened self-query of the National Practitioner Databank (NPDB).

(3) Endorsement applications with inequivalent standards will be reviewed by the board.

(4) If the board determines the license standards are not substantially equivalent, the board may require successful passage of the SPEC examination administered by the NBCE for licensure.

(5) All applicants must also pass the state jurisprudence examination with a minimum score of 75 percent.

AUTH: 37-1-131, 37-12-201, MCA

IMP: 37-1-131, 37-1-304, MCA

REASON: To address applicant questions and confusion among licensing staff, the board is amending and reorganizing this rule to clearly set forth the requirements for licensure by endorsement as allowed by 37-1-304, MCA.

The board is also adding (3) to no longer require board review of every endorsement application prior to license issuance. While the board previously considered all endorsement applications as nonroutine, these amendments will provide licensing staff the necessary clarification and board guidance to determine whether another state's license standards are substantially equivalent to Montana's. Following amendment, the board will only review those applications determined to have inequivalent standards. This will further streamline application processing by reducing the number of applications that need board review before issuance.

The board is also adding (5) to address confusion and clarify that all applicants, including those by endorsement, are required to pass the state jurisprudence examination.

~~24.126.511 DISPLAY OF LICENSE (1) The form of license is to be made and approved by the department and signed by the applicant pursuant to 37-1-104, MCA.~~

~~(2) All persons engaged in the practice of chiropractic must display their license in a conspicuous place for members of the public to view. Licenseses shall display or present proof of current licensure upon request of department personnel or members of the public.~~

~~(3) Licenses must not be defaced or altered for display requirements.~~

~~(4) Licensees shall immediately notify the department of lost, damaged, or destroyed licenses and obtain a duplicate license by submitting a written request and the appropriate fee to the department.~~

AUTH: 37-1-131, 37-12-201, MCA

IMP: ~~37-1-104,~~ 37-1-131, 37-12-201, MCA

REASON: To recognize current practice situations as well as licensees' ability to print licenses when necessary, the board is amending this rule to ensure adequate display and proof of licensure.

24.126.701 INACTIVE STATUS AND CONVERSION TO ACTIVE STATUS

~~(1) A licensed chiropractor who wishes to retain a license but who will not be practicing chiropractic in Montana, Licenseses may obtain an inactive status chiropractic license upon submission of an application. An individual licensed While on inactive status, chiropractors may not practice chiropractic in Montana during the period in which the licensee remains on inactive status.~~

~~(2) An individual licensed on inactive status may To convert the inactive status license to active status, inactive licensees must submit by submission of an appropriate application, payment of pay the required renewal fee for the year in question, and provide evidence that:~~

~~(a) any and all chiropractor chiropractic licenses currently held in other jurisdictions are unrestricted with no pending discipline, and evidence of one proof of the following either:~~

~~(a) (i) during each year of inactive status in this state, having practiced full-time (no less than 1500 hours per each year on inactive status) practice of chiropractic under a chiropractic license in good standing in another state that requires completion of continuing education substantially equivalent to that required under these rules and fulfillment of those requirements in Montana; or~~

~~(b) (ii) proof of completion of 13 12 hours of approved continuing education in the year preceding activation the conversion.~~

AUTH: 37-1-131, 37-1-319, ~~37-12-201~~, MCA

IMP: 37-1-131, 37-1-319, MCA

REASON: In addition to reworking and reorganizing for clarity, the board is amending (2)(a)(ii) to reduce the number of required CE hours when converting from inactive to active status licensure. This change will align with amendments proposed to the CE rules in this notice.

24.126.704 INTERNS AND PRECEPTORS INTERN AND PRECEPTOR REGISTRATION (1) Prior to acting as a preceptor to interns, licensees must register all interns with the board. ~~Interns will only be allowed to practice under the direction and supervision of a licensed chiropractor (the "preceptor") in the state of Montana.~~

~~(2) Prior to acting as an intern, a pregraduate student or postgraduate must apply to the board, and in so doing, must provide the following:~~

~~(a) a completed application on a form provided by the department;~~

~~(b) current transcripts from the chiropractic college attended;~~

~~(c) a letter from the chiropractic college the student is attending that lists the student's date of matriculation and expected graduation date or a copy of a diploma;~~

~~(d) proof of passage of the jurisprudence exam with a minimum score of 75 percent; and~~

~~(e) a signed conditions statement from the sponsoring preceptor and the intern.~~

~~(3) Interns may not sign insurance claims, workers' compensation claims, Medicare claims, birth or death certificates, or other documents that require the signature of a licensed chiropractor.~~

~~(4) Interns shall follow the laws and rules of the board, the same as if they were licensed as a chiropractor.~~

~~(5) Before acting as a preceptor, a chiropractor must meet the following requirements:~~

~~(a) must be in good standing with the board; and~~

~~(b) must have a minimum of five years of practice in the state of Montana.~~

~~(6) A preceptor must comply with the following guidelines:~~

~~(a) provide malpractice insurance, if coverage over and above that which is provided by the chiropractic college is required;~~

- ~~(b) maintain a presence within the practice environment at all times when an intern is seeing patients;~~
- ~~(c) comply with the guidelines on involving an intern in the care of patients of the field doctor as required by the chiropractic college; and~~
- ~~(d) include a designation that the pregraduate or postgraduate intern is an "intern" on any type of advertisement. This designation must appear with the name of the licensed preceptor supervising the intern.~~
- ~~(7) An intern license is valid for 12 consecutive months and is nonrenewable.~~

AUTH: ~~37-1-131~~, 37-12-201, MCA

IMP: 37-12-201, MCA

REASON: Following a determination that the board lacks the statutory authority to issue licenses to interns, the board is amending this rule to align with the provisions of 37-12-201, MCA, which require the board to have rules to register interns and preceptors. Noting that Montana statutes do not require a postgraduate internship to qualify for licensure as a chiropractor, the board is amending (1) to require any licensed chiropractor to register all supervised interns prior to acting as a preceptor in Montana.

24.126.910 IMPAIRMENT EVALUATOR CONTINUING EDUCATION RENEWAL—DENIAL—REVOICATION STANDARDS (1) A minimum of four hours of specialized continuing education (CE) relevant to impairment evaluation shall be ~~taken~~ obtained every four years.

(a) These hours shall be in addition to the ~~continuing education requirement~~ CE required for a ~~renewed~~ the underlying chiropractic license.

(b) CE approved by the board must directly relate to impairment evaluation and shall be affiliated with national, regional, or state chiropractic associations, state licensing boards, academies, colleges of chiropractic, or education approved by the Federation of Chiropractic Licensure Board (FCLB) Providers of Approved Continuing Education (PACE).

~~(b) (c) A~~ The department shall conduct a random audit of impairment evaluator certificate holders shall be conducted every four years to verify compliance of with the continuing education requirement requirements.

(c) remains the same but is renumbered (d).

~~(d) (e)~~ Any impairment evaluator seeking a hardship waiver from their continuing education the CE requirements shall apply to the board, in writing, as soon as possible after the hardship is identified and prior to the end of the period for completing the continuing education.

(i) Specific details of the hardship must be included.

(ii) The board must ~~make a finding~~ find that a hardship exists.

(iii) The waiver may be absolute or conditional.

(2) Persistent deviation from generally accepted standards for impairment evaluation ~~is~~ may be grounds for disciplinary action, which may include revocation of the impairment evaluator certificate.

(3) ~~An impairment evaluator~~ Impairment evaluators must comply with ARM 24.29.1415. ~~These rules can be obtained by contacting the Department of Labor~~

and Industry Workers' Compensation Regulation Bureau This rule is available at www.mtrules.org.

(4) remains the same.

AUTH: 37-1-131, ~~37-1-136~~, 37-1-319, 37-12-201, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-12-201, MCA

REASON: The board is amending this rule for better organization, clarity, and ease of use for the reader. Additionally, the board is amending (1)(b) to address questions from the department audit unit and clarify the standards for acceptable impairment evaluation CE. These standards mirror those for the underlying chiropractic CE in ARM 24.126.2105.

24.126.2103 CONTINUING EDUCATION REQUIREMENTS (1) Beginning with the ~~2012~~ 2018 renewal, every active licensee shall affirm ~~that they have completed an understanding of the duty to complete~~ a minimum of ~~43~~ 12 hours of board-approved continuing education (CE) during each renewal period as defined in ARM 24.101.413. ~~All active licensees shall affirm on all subsequent renewal applications that they have attended and successfully completed a minimum of 13 hours of board-approved continuing education in the period preceding the application for renewal.~~

(a) Of the ~~43~~ 12 hours, no more than two hours can be in the subject area of philosophy and/or practice management. ~~In addition, the board will require each licensee to demonstrate successful completion of a professional boundary and ethics continuing education course.~~

~~(b) (2) Of the 13 hours, one hour must be obtained in professional boundaries or ethics. The board will only grant credit for a maximum of one hour in professional boundaries or ethics. Licensees shall complete four hours of CE in professional boundaries and ethics every four-year reporting period. These hours shall be in addition to and not count toward the 12 hours of CE required each year.~~

~~(2) (3) New licensees to Montana have from the date of their original licensure in Montana until the end of their first full renewal period to complete their first 13 hours of continuing education, and shall affirm on their second renewal application that they have attended and successfully completed a minimum of 13 hours of board-approved continuing education during that period. New licensees shall:~~

~~(a) complete 12 hours of CE between the date of original Montana licensure and the end of the first full renewal period; and~~

~~(b) affirm their understanding of the requirement on the second renewal application.~~

~~(3) (4) Licensees transferring from inactive to active shall abide by the continuing education requirements outlined in of ARM 24.126.701.~~

~~(4) (5) An annual random audit of ten percent of active licensees will be conducted to verify compliance of with the continuing education CE requirements.~~

~~(5) (6) Clock hours of continuing education CE cannot be accumulated and carried over from one renewal period to the next renewal period.~~

~~(6)~~ (7) It shall be necessary for those Licensees attending the Montana Chiropractic Association educational meetings to must register with the secretary of the association each day of attendance to receive ~~continuing education~~ CE credit.

~~(7)~~ (8) A three-month extension will be provided for all licensees who fail to meet the ~~continuing education~~ CE requirements as a result of an audit. Failure to meet this extension may result in disciplinary action.

~~(8)~~ (9) Any licensee seeking a hardship waiver from their ~~continuing education~~ CE requirements shall apply to the board, in writing, as soon as possible after the hardship is identified and prior to the close of licensure for that period.

(a) Specific details of the hardship must be included.

(b) The board must ~~make a finding~~ find that a hardship exists.

(c) The waiver may be absolute or conditional.

AUTH: 37-1-131, 37-1-319, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, MCA

REASON: The board is amending this rule for better organization, clarity, ease of use, and to align with current renewal application content. Additionally, following board discussion, the board decided it is reasonably necessary to amend the CE requirements to 12 hours annually and four hours of additional CE in ethics and boundaries every four years. While licensees must currently obtain one hour in ethics and boundaries each year, the board concluded that reporting in four-year cycles will better align with CE opportunities and simplify the process for licensees.

24.126.2105 APPROVED CONTINUING EDUCATION (1) Continuing education (CE) approved by the board must directly relate to the practice of chiropractic and shall be affiliated with national, regional, or state chiropractic associations, state licensing boards, academies, colleges of chiropractic, or education approved by the Federation of Chiropractic Licensure Board (FCLB) Providers of Approved Continuing Education (PACE).

(2) From the date of their original licensure in Montana until the end of the first full renewal period, new licensees can fulfill the ~~continuing education~~ CE requirement by attending one session of the "new doc seminar" in lieu of the ~~43~~ 12-hour ~~continuing education~~ CE requirement.

(3) remains the same.

(4) All Internet courses must meet the same guidelines for ~~continuing education~~ CE approval.

(5) remains the same.

AUTH: 37-1-131, 37-1-319, MCA

IMP: 37-1-131, 37-1-141, 37-1-306, 37-1-319, MCA

REASON: The board is amending this rule to align with the proposed amendments to the other CE rules in this notice.

5. 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 Chiropractors, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdcchi@mt.gov, and must be received no later than 5:00 p.m., February 9, 2018.

6. An electronic copy of this notice of public hearing is available at www.chiropractor.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.

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

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

9. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.126.401, 24.126.402, 24.126.501, 24.126.502, 24.126.504, 24.126.507, 24.126.510, 24.126.511, 24.126.701, 24.126.704, 24.126.910, 24.126.2103, and 24.126.2105 will not significantly and directly impact small businesses.

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

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

BOARD OF CHIROPRACTORS
AMY PEZO, DC, PRESIDENT

/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 January 2, 2018.