

BEFORE THE BOARD OF MASSAGE THERAPY
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.155.604 licensure by) PROPOSED AMENDMENT
examination, 24.155.608 licensure of)
out-of-state applicants, and)
24.155.613 nonroutine applications)

TO: All Concerned Persons

1. On August 16, 2017, 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 Massage Therapy (board) no later than 5:00 p.m., on August 9, 2017, to advise us of the nature of the accommodation that you need. Please contact Steve Gallus, Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdlmt@mt.gov (board's e-mail).

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

24.155.604 LICENSURE BY EXAMINATION (1) through (1)(a)(i) remain the same.

(ii) a copy of a ~~certified~~ an official transcript or certificate of completion ~~sent directly from the official custodian of the record,~~ evidencing to the board's satisfaction that the applicant has a high school diploma or its equivalent;

(iii) through (vi) remain the same.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-131, 37-33-502, MCA

REASON: The board determined it is reasonably necessary to amend this rule and ARM 24.155.608 to allow applicants to provide official copies of their transcripts. By no longer requiring certified transcripts delivered by a records custodian, the amendment will facilitate effective, timely licensure and align with standardized department application procedure.

24.155.608 LICENSURE BY CREDENTIAL OF OUT-OF-STATE APPLICANTS (1) All applicants for licensure by ~~endorsement credential~~ shall submit a completed application on a form prescribed by the department.

(2) and (2)(a) remain the same.

(b) a copy of a ~~certified~~ an official transcript or certificate of completion sent ~~directly from the official custodian of the record~~, evidencing to the board's satisfaction that the applicant has a high school diploma or its equivalent;

(c) through (e) remain the same.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-131, 37-1-304, 37-33-502, MCA

24.155.613 NONROUTINE APPLICATIONS (1) remains the same.

(a) ~~that the applicant has a prior felony conviction of any nature or a prior misdemeanor conviction relating to sex or violence~~ a total of three or more currently pending charges or past convictions of misdemeanor crimes if the applicant was sentenced for the past convictions no earlier than five years before the board received the application;

(b) a pending charge of any felony crime or a past conviction of any felony crime for which the applicant was either sentenced no earlier than ten years before the date the board received the application or for which the sentence has not been fully satisfied and discharged;

(c) a pending charge of any crime or a past conviction of any crime relating to sex;

(b) ~~that the applicant has had two or more alcohol or drug related convictions within the last three years;~~

(c) through (g) remain the same but are renumbered (d) through (h).

(2) remains the same.

AUTH: 37-1-131, 37-33-405, MCA

IMP: 37-1-101, 37-1-131, 37-33-501, 37-33-502, MCA

REASON: Under the authority of 37-1-101, MCA, the department receives and processes routine license applications for the professional licensing boards, while nonroutine applications are reviewed by the boards. The board determined it is reasonably necessary to amend this rule to broaden the criminal history reviewed in the application process to focus board review on more recent felony and misdemeanor charges and convictions. This change will allow applicants with older, resolved criminal histories to become licensed more quickly, while ensuring board review of applications with increased risk to public safety.

The board is adding (1)(c) to specify that the board must review applications containing criminal histories related to sex. The board determined this will ensure a thorough review and adequate public protection when considering these applications.

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 Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdlmt@mt.gov, and must be received no later than 5:00 p.m., August 18, 2017.

5. An electronic copy of this notice of public hearing is available at www.massagetherapists.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 Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdlmt@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 24.155.604, 24.155.608, and 24.155.613 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Massage Therapy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2370; facsimile (406) 841-2305; or to dlibsdlmt@mt.gov.

9. Steve Gallus, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF MASSAGE THERAPY
ANNE GERGEN, CHAIRPERSON

/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 July 10, 2017.