

BEFORE THE DEPARTMENT OF LABOR AND INDUSTRY
AND THE BOARD OF MEDICAL EXAMINERS
STATE OF MONTANA

In the matter of the amendment of ARM) NOTICE OF AMENDMENT,
24.101.413 renewal dates and) ADOPTION, AND REPEAL
requirements, 24.156.501 definitions,)
24.156.503 medical student's)
supervision and permitted activities,)
24.156.504 internship, 24.156.601 fee)
schedule, 24.156.626 revocation or)
suspension proceedings, 24.156.625,)
24.156.1005, 24.156.1307,)
24.156.1412, and 24.156.1625)
unprofessional conduct, 24.156.1304)
and 24.156.1404 application for)
licensure, 24.156.1306 professional)
conduct and standards of professional)
practice, 24.156.1617 application for)
physician assistant license,)
24.156.1622 supervision of physician)
assistant, 24.156.1623 chart review,)
24.156.2718 continuing education and)
refresher requirements, and)
24.156.2732 medical direction; the)
adoption of NEW RULE I application for)
temporary non-disciplinary physician)
license, NEW RULE II application for)
physician licensure in another state via)
interstate compact, NEW RULE III)
application for licensure, and NEW)
RULE IV post-graduates—supervision)
and permitted activities; and the repeal)
of ARM 24.156.203 board meetings,)
24.156.502 medical schools,)
24.156.505 intern's scope of practice,)
24.156.506 residency, 24.156.507)
resident's scope of practice, 24.156.605)
temporary license, 24.156.627)
reinstatement, 24.156.803 license)
requirement, 24.156.804 application for)
a telemedicine license, 24.156.805)
fees, 24.156.806 failure to submit fees,)
24.156.807 issuance of a telemedicine)
license, 24.156.808, 24.156.1004,)
24.156.1305, 24.156.1411, and)
24.156.1619 renewals, 24.156.809)

effect of determination that application)
 for telemedicine license does not meet)
 requirements, 24.156.811 sanctions,)
 24.156.812 obligation to report to board,)
 24.156.1602 board policy, and)
 24.156.1616 maintaining NCCPA)
 certification)

TO: All Concerned Persons

1. On January 6, 2017, the Department of Labor and Industry (department) and the Board of Medical Examiners (board) published MAR Notice No. 24-156-83 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 49 of the 2017 Montana Administrative Register, Issue No. 1.

2. On February 3, 2017, a public hearing was held on the proposed amendment, adoption, and repeal of the above-stated rules in Helena. Several comments were received by the February 10, 2017, deadline.

3. The board has thoroughly considered the comments received. A summary of the comments and the board responses are as follows:

COMMENT 1: Several commenters wrote in support of the proposed rule changes, with three specifically in favor of the changes applicable to emergency care providers (ECPs).

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

COMMENT 2: One commenter wrote in support of Montana joining the Recognition of EMS Personnel Licensure Interstate Compact (REPLICA).

RESPONSE 2: Authorization to join REPLICA requires legislative action and is outside the scope of the board's rulemaking authority.

COMMENT 3: One commenter expressed support for acceptance of the National Registry of Emergency Medical Technicians' (NREMT) testing and certification process for emergency medical services credentialing.

RESPONSE 3: The board recognizes Montana licensees may obtain and maintain NREMT certification, and may report coursework completed in pursuit of NREMT certification to meet some or all of the board's continuing education and refresher course requirements for license renewal. The board disagrees that it should adopt NREMT education and testing standards as a complete replacement for Montana licensing and renewal purposes.

COMMENT 4: One commenter noted that the reasonable necessity statement for ARM 24.156.1617 refers to an "acupuncturist" application seemingly in error.

RESPONSE 4: The board recognizes the incorrect reference to an acupuncturist license in the reasonable necessity for ARM 24.156.1617. Noting that similar changes were proposed to other rules to align with current application requirements, the board acknowledges a similarity among several reasonable necessity statements. It is clear that this rule change and the accompanying reasonable necessity statement applies only to physician assistant license requirements. The reference to acupuncturist was an inadvertent typographical error.

ARM 24.156.2718 CONTINUING EDUCATION AND REFRESHER

COMMENT 5: Two commenters expressed concern that the proposed rule changes prohibit ECP licensees from reporting continuing education or refresher course credits to NREMT for certification purposes and also to the board for Montana license renewal.

RESPONSE 5: The proposed rule changes are not intended to prohibit ECP licensees from reporting continuing education or refresher courses to NREMT for certification, and also to the board for license renewal. Amendments to the rule are intended to clarify that NREMT certification, in and of itself, may not in all cases meet the board's continuing education and refresher course requirements. Licensees must meet the board's requirements, but may continue to report NREMT courses for Montana license renewal purposes.

The board recognizes the confusion created by the proposed amendment and is further amending the rule for improved clarity.

COMMENT 6: Several commenters expressed concern that proposed rule changes impose additional duties and responsibilities on lead instructors and medical directors beyond what is currently required specifically related to responsibilities to validate licensees' knowledge, skills, and competence commensurate with a licensee's scope of practice.

RESPONSE 6: As reflected in the reasonable necessity statement in support of proposed amendments to this rule, the board's intent is not to modify or increase the current responsibilities for lead instructors and medical directors in conducting continuing education, but rather to clarify the requirements in response to licensee complaints that the existing rule is confusing.

COMMENT 7: Several commenters requested that the board include standardized testing criteria by which lead instructors or medical directors should validate the knowledge, skills, and competency of licensees taking continuing education or refresher courses.

RESPONSE 7: The board acknowledges the suggestion, and may consider it on a future rules committee agenda.

4. The department has amended ARM 24.101.413 exactly as proposed.

5. The board has amended ARM 24.156.501, 24.156.503, 24.156.504, 24.156.601, 24.156.625, 24.156.626, 24.156.1005, 24.156.1304, 24.156.1306, 24.156.1307, 24.156.1404, 24.156.1412, 24.156.1617, 24.156.1622, 24.156.1623, 24.156.1625, and 24.156.2732 exactly as proposed.

6. The board has adopted NEW RULES I (24.156.612), II (24.156.613), III (24.156.1001), and IV (24.156.509) exactly as proposed.

7. The board has repealed ARM 24.156.203, 24.156.502, 24.156.505, 24.156.506, 24.156.507, 24.156.605, 24.156.627, 24.156.803, 24.156.804, 24.156.805, 24.156.806, 24.156.807, 24.156.808, 24.156.809, 24.156.811, 24.156.812, 24.156.1004, 24.156.1305, 24.156.1411, 24.156.1602, 24.156.1616, and 24.156.1619 exactly as proposed.

8. The board has amended ARM 24.156.2718 with the following changes, stricken matter interlined, new matter underlined:

24.156.2718 CONTINUING EDUCATION AND REFRESHER REQUIREMENTS (1) remains as proposed.

(2) ECPs must complete a refresher course in which a lead instructor or medical director validates knowledge and skills. An ECP cannot build a refresher course by combining continuing education topics or offerings.

(a) The refresher course must ~~assure~~ assess the licensee's competency demonstrated during the course to function at the level of the ECP license in accordance with the scope of education and practice.

(b) remains as proposed.

(i) The content must be structured to ~~assure ongoing~~ assess competency of the core knowledge and skills for the level of the ECP license.

(ii) remains as proposed.

(3) ~~An ECP cannot build a refresher course by combining continuing education topics or offerings.~~ ECPs certified by the NREMT may report completed continuing education and refresher course credits to the NREMT for registration purposes and also to the board to meet, in whole or in part, the requirements of (1) and (2).

(4) remains as proposed.

(5) The medical director is responsible for the refresher training at the endorsed EMT level and above.

~~(a)~~ The medical director may assign duties as appropriate, but retains the overall responsibility for the refresher.

(6) The lead instructor conducting a refresher course must ~~be able to provide~~ an agenda and detailed student performances that document the licensee's ability demonstrated during the course of instruction to function in accordance with knowledge and skills within the original scope of education.

(a) remains as proposed.

(b) ~~If audited by the board, the local~~ medical director must justify the AEMT and paramedic refresher content ~~to the board, if audited.~~
(7) through (9) remain as proposed.

BOARD OF MEDICAL EXAMINERS
JAMES FEIST, MD
PRESIDENT

/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 April 17, 2017.