

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

In the matter of the amendment of)	NOTICE OF AMENDMENT,
ARM 24.156.601 fee schedule,)	ADOPTION, AND REPEAL
24.156.606 examination, 24.156.615)	
renewals, 24.156.801 purpose and)	
authority, 24.156.802 definitions,)	
24.156.1002 fees, 24.156.1003 ankle)	
surgery certification, 24.156.1409)	
accreditation, approval, and)	
standards, 24.156.1618 physician)	
assistant fees, and 24.156.1621)	
obligation to report to board; the)	
adoption of New Rule I medical)	
assistant–delegation and supervision,)	
and New Rule II practice requirements)	
for physicians using telemedicine; and)	
the repeal of ARM 24.156.640 medical)	
assistant and 24.156.810 effect of)	
telemedicine license)	

TO: All Concerned Persons

1. On May 11, 2018, the Board of Medical Examiners (board) published MAR Notice No. 24-156-84 regarding the public hearing on the proposed amendment, adoption, and repeal of the above-stated rules, at page 936 of the 2018 Montana Administrative Register, Issue No. 9.

2. On June 6, 2018, 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 June 8, 2018, deadline.

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

COMMENT 1: Many commenters generally supported the proposed amendments to ARM 24.156.801 and 24.156.802.

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

COMMENT 2: Several commenters generally supported New Rule I regarding delegation and supervision of medical assistants, but were concerned as to their qualifications. The commenters suggested adding certification as one express

means by which a supervising practitioner can document the medical assistant's competence to perform a delegated task under (2).

RESPONSE 2: The board cannot make the proposed significant amendments in this final notice, but will consider future amendments to this new rule.

COMMENT 3: Several commenters expressed concern with the term "direct supervision" used in New Rule I and defined in ARM 24.156.501. The commenters stated that the terms "sufficiently close proximity" and "quickly available" in the definition are vague and should be more specific.

RESPONSE 3: Noting the comment refers to ARM 24.156.501, which is not included in this rulemaking MAR Notice No. 24-156-84, the board is unable to address that rule in this final notice. The board will consider whether to address the definitions referenced in the comment in a future rules proposal.

COMMENT 4: Many commenters were concerned regarding delegation of tasks involving administration of IV medications, blood products, or conscious sedation to medical assistants in New Rule I. Some commenters suggested that only licensed professionals should be performing these skills and urged the board to consider safe medical practices and patient safety. Other commenters suggested that those tasks should be delegable only to medical assistants who have graduated from a postsecondary, programmatically accredited medical assisting program; and hold a current medical assisting credential from a nationally accredited organization.

RESPONSE 4: The board is unable to make the proposed significant amendments in this final notice, but will consider future amendments to this new rule.

COMMENT 5: Many commenters fully supported the adoption of New Rule II on telemedicine practice requirements and thanked the board for developing rules that support safe and effective delivery of telemedicine services in Montana.

RESPONSE 5: The board appreciates all comments received during the rulemaking process.

COMMENT 6: Many commenters supported New Rule II, but some were concerned about a physician's inability to prescribe a Schedule II drug without first having a physician-patient relationship established through in-person meetings with medical interviews and a physician examination. The commenters suggested the board further amend this new rule to allow Montana physicians to prescribe Schedule II drugs without an in-person exam under certain conditions including emergency psychiatric situations and treatment/management of opioid or alcohol dependence.

RESPONSE 6: The board is unable to make the proposed significant amendments in this final notice, but will consider future amendments to this new rule.

4. The board has amended ARM 24.156.601, 24.156.606, 24.156.615, 24.156.801, 24.156.802, 24.156.1002, 24.156.1003, 24.156.1409, 24.156.1618, and 24.156.1621 exactly as proposed.

5. The board has adopted New Rules I (24.156.401) and II (24.156.813) exactly as proposed.

6. The board has repealed ARM 24.156.640 and 24.156.810 exactly as proposed.

BOARD OF MEDICAL EXAMINERS
TANJA BREKKE, L.AC., 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 October 9, 2018.