

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

In the matter of the amendment of)
ARM 24.168.401 fees and)
24.168.2101 continuing education)
NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On March 10, 2017, 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 Optometry (board) no later than 5:00 p.m., on March 3, 2017, to advise us of the nature of the accommodation that you need. Please contact Linda Grief, Board of Optometry, 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 dlisbdopt@mt.gov (board's e-mail).

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

24.168.401 FEE SCHEDULE

(1) remains the same.

(2) Annual renewal

125 175

(3) through (5) remain the same.

AUTH: 37-1-131, 37-1-134, 37-10-202, MCA

IMP: 37-1-134, 37-1-141, 37-1-304, 37-10-302, MCA

REASON: The board has determined it is reasonably necessary to increase the annual renewal fee to comply with the provisions of 37-1-134, MCA, and ensure that board fees related to its program area provide the amount of money usually needed for the operation of the board for services.

In the last several years, the number of licensees has remained fairly constant, while expenses have increased in excess of revenue generated through license fees. Over the past five years, average board revenue has been \$39,000 annually, while expenditures have averaged \$48,000, leaving very little in cash reserves. In addition to the fee increase, the department and board will continue to seek and implement ways to reduce costs associated with board functions. The board notes that operation costs continue to increase and that several fixed costs are not board-controlled, such as rent, utilities, telephones, and the computer

system. The board has concluded that it is necessary to increase fees as proposed to adequately cover operating expenses and practice responsible fiscal planning.

The board estimates that the proposed fee increase will affect approximately 260 renewing licensees and increase annual revenue by \$13,000. The board last increased fees in April of 2005.

24.168.2101 CONTINUING EDUCATION REQUIREMENTS (1) through (3) remain the same.

(4) The board may conduct random audits of ~~20~~ up to 50 percent of all renewed licensees. It is the responsibility of each optometrist to maintain the optometrist's own records of participation and completion, and make them available upon request.

(a) and (b) remain the same.

AUTH: 37-1-319, 37-10-202, MCA

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

REASON: The board is amending this rule to allow flexibility in conducting continuing education random audits. Currently, the board is required to randomly audit 20 percent of all renewed licensees each reporting period. 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.

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 Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdopt@mt.gov, and must be received no later than 5:00 p.m., March 17, 2017.

5. An electronic copy of this notice of public hearing is available at www.optometry.mt.gov (department and board's web site). The department strives to make the electronic copy of this notice conform to the official version of the notice, as printed in the Montana Administrative Register, but advises all concerned persons that in the event of a discrepancy between the official printed text of the notice and the electronic version of the notice, only the official printed text will be considered. In addition, although the department strives to keep its web site accessible at all times, concerned persons should be aware that the web site may be unavailable during some periods, due to system maintenance or technical problems, and that technical difficulties in accessing or posting to the e-mail address 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 Optometry, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdopt@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 24.168.401 and 24.168.2101 will not significantly and directly impact small businesses.

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

9. Darcee L. Moe, attorney, has been designated to preside over and conduct this hearing.

BOARD OF OPTOMETRY
DOUG KIMBALL, O.D., 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 February 6, 2017.