

BEFORE THE BOARD OF OCCUPATIONAL THERAPY PRACTICE
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)
ARM 24.165.401 fees, 24.165.2101)
continuing education, 24.165.2301)
unprofessional conduct, and the)
repeal of 24.165.411 board filing)
practices, 24.165.2115 renewals)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT AND
REPEAL

TO: All Concerned Persons

1. On December 13, 2018, at 10:30 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 and repeal 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 Occupational Therapy Practice (board) no later than 5:00 p.m., on December 6, 2018, to advise us of the nature of the accommodation that you need. Please contact L'Joy Griebenow, Board of Occupational Therapy Practice, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2258; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdotp@mt.gov (board's e-mail).

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

24.165.401 FEES (1) through (1)(f) remain the same.
(g) Provider request for approval of continuing education
program or course 150
(2) and (3) remain the same.

AUTH: 37-1-131, 37-1-134, 37-24-201, 37-24-202, 37-24-310, MCA
IMP: 37-1-134, 37-1-141, 37-24-306, 37-24-310, MCA

REASON: The board is amending this rule to set a fee for continuing education (CE) providers to request approval of programs or courses to address the costs associated with this process. Rather than increase the licensees' fees, the board deemed it prudent to assess CE providers, since they typically charge a fee for their courses and have a marketing incentive to provide approved courses. Several other boards charge various fees for CE course/provider requests. The board estimates there will be approximately 35 provider requests for course or program approval, resulting in a \$5,250 increase in annual revenue.

24.165.2101 CONTINUING EDUCATION (1) through (6) remain the same.

(7) ~~Subject to board approval, continuing~~ Continuing education may be earned:

(a) through (b)(ii) remain the same.

(iii) the course must be ~~addressed to health professionals or a community service organization~~ germane to the profession;

(iv) through (8) remain the same.

AUTH: 37-1-131, 37-1-319, 37-24-202, MCA

IMP: 37-1-131, 37-1-306, 37-1-319, 37-24-202, MCA

REASON: The board determined it reasonable to amend this rule to allow staff more discretion in approving CE courses that are not affiliated with the current approved providers listed in this rule. The board intends for this amendment to create efficiencies in the CE review process due to less board time spent reviewing courses. Any course that cannot be determined to be acceptable by staff will be reviewed by the board at their next meeting.

Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.165.2301 UNPROFESSIONAL CONDUCT (1) through (1)(y) remain the same.

~~(z) accepting, directly or indirectly, employment from any person who is not licensed to practice the profession or occupation, or who is not licensed or authorized to operate a professional practice or business;~~

(aa) through (am) remain the same but are renumbered (z) through (al).

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-24-201, 37-24-202, MCA

IMP: 37-1-136, 37-1-307, 37-1-308, 37-1-309, 37-1-311, 37-1-312, 37-1-316, 37-24-106, 37-24-107, 37-24-202, MCA

REASON: The board is amending this rule to address inquiries from individuals intending to start occupational therapy businesses in Montana or wanting to hire occupational therapists for existing Montana businesses. Following discussion, the board concluded that because licensees practice within a code of ethics, it is not necessary to prohibit licensee employment by non-licensees and the public is not afforded greater protection by doing so. It is reasonably necessary to amend this rule to address confusion on the part of businesses, licensees, and the public.

4. The rules proposed to be repealed are as follows:

24.165.411 BOARD FILING PRACTICES

AUTH: 37-24-201, 37-24-202, MCA

IMP: 37-24-202, MCA

REASON: The board is repealing this rule as unnecessary and outdated because all correspondence and submissions to the boards are processed via standardized department procedures as part of the department's administrative services.

24.165.2115 RENEWALS

AUTH: 37-1-141, 37-24-201, 37-24-202, MCA

IMP: 37-1-141, 37-24-102, 37-24-301, 37-24-306, MCA

REASON: The board is repealing this unnecessary rule because the department administers a standardized renewal process for all professional and occupational licensure boards, and this rule merely references the department rules on renewals.

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 Occupational Therapy Practice, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdotp@mt.gov, and must be received no later than 5:00 p.m., December 14, 2018.

6. An electronic copy of this notice of public hearing is available at www.ot.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 Occupational Therapy Practice, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdotp@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 24.165.401, 24.165.2101, and 24.165.2301 will not significantly and directly impact small businesses.

Regarding the requirements of 2-4-111, MCA, the board has determined that the repeal of ARM 24.165.411 and 24.165.2115 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determinations is available upon request to the Board of Occupational Therapy Practice, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2258; facsimile (406) 841-2305; or to dlibsdotp@mt.gov.

10. L'Joy Griebenow, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF OCCUPATIONAL THERAPY
PRACTICE
BRENDA TONER
INTERIM PRESIDING OFFICER

/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 November 7, 2018.