

BEFORE THE BOARD OF PUBLIC ACCOUNTANTS
DEPARTMENT OF LABOR AND INDUSTRY
STATE OF MONTANA

In the matter of the amendment of)	NOTICE OF PUBLIC HEARING ON
ARM 24.201.410 fee schedule,)	PROPOSED AMENDMENT
24.201.415 use of CPA/LPA)	
designation, 24.201.503 applicant for)	
initial license, 24.201.510 certified)	
public accountant examination,)	
24.201.528 out-of-state licensees)	
seeking a Montana license,)	
24.201.529 foreign licensees seeking a)	
Montana license, 24.201.532)	
application review, 24.201.1103 peer)	
review enrollment, 24.201.1108)	
alternatives and exemptions,)	
24.201.1109 approved peer review)	
sponsoring organizations, programs,)	
and peer review standards,)	
24.201.2124 standards for CPE)	
reporting, 24.201.2145 reporting)	
requirements, and 24.201.2154)	
extension or hardship exception)	

TO: All Concerned Persons

1. On August 14, 2018, at 9:00 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 Public Accountants no later than 5:00 p.m., on August 7, 2018, to advise us of the nature of the accommodation that you need. Please contact Grace Berger, Board of Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2244; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2305; or dlibsdpac@mt.gov (board's e-mail).

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

24.201.410 FEE SCHEDULE (1) through (1)(g) remain the same.

~~(h) CPE extension request~~ _____ 125

(i) remains the same but is renumbered (h).

(j) ~~Upgrade certificate to license~~ 150
(2) and (3) remain the same.

AUTH: 37-1-134, 37-50-204, MCA

IMP: 37-1-134, 37-1-141, 37-50-204, 37-50-209, MCA

REASON: The board is amending (1)(h) to eliminate the fee associated with filing for a CPE extension. After reviewing the two previous CPE audit results, the board concluded that the fee may have discouraged eligible licensees from requesting an exemption or exception and is further streamlining the extension/hardship exception request process at ARM 24.201.2154 in this notice. The board estimates that the repeal of this fee will affect approximately five individuals and result in a loss of approximately \$625 in annual revenue.

The board is amending (1)(j) to eliminate the fee to upgrade certificates to a full license. The certificate level of license was eliminated through 2015's House Bill 44, which required all existing certificates to terminate December 31, 2017. As the date has now passed, certificates are no longer eligible for upgrade, a new license application is required, and this fee is no longer necessary. Because this license type no longer exists, the fee elimination will have no impact on annual revenue and will not affect any applicant.

24.201.415 USE OF CPA/LPA DESIGNATION (1) through (3) remain the same.

~~(4) A person holding a certificate only does not have an active license and may not hold themselves out to the public as a CPA/LPA or use the CPA/LPA designation.~~

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-301, 37-50-325, 37-50-335, MCA

REASON: The board is striking (4) to remove the restrictions for the certificate-only level of licensure, which was eliminated through House Bill 44. Since all existing certificates terminated December 31, 2017, it is no longer necessary to identify limits on the license type.

24.201.503 APPLICANT FOR INITIAL LICENSE (1) through (1)(c) remain the same.

(i) meet the education requirements of ARM 24.201.501; or

~~(ii) meet the education waiver requirements of ARM 24.201.528; or~~

(iii) remains the same but is renumbered (ii).

(A) through (3) remain the same.

AUTH: 37-1-131, 37-50-201, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, 37-50-302, 37-50-305, MCA

REASON: The board is amending the title to more clearly reflect that this rule applies to initial licensure applicants, and is eliminating the reference to the

education waiver requirements. Following an internal review of application procedures and subsequent advice from staff, the board is making these changes to align with amendments to ARM 24.201.528 and 24.201.529 to streamline the reciprocity licensure process. These changes are in line with the Uniform Accountancy Act.

24.201.510 CERTIFIED PUBLIC ACCOUNTANT EXAMINATION (1) and (2) remain the same.

(3) The board accepts the advisory grading service of the AICPA or its delegate.

(3) through (5) remain the same but are renumbered (4) through (6).

~~(6) The board may contract for:~~

~~(a) examination database and reporting services; and~~

~~(b) examination administrative services.~~

(7) and (8) remain the same.

AUTH: 37-1-131, 37-50-204, MCA

IMP: 37-1-131, 37-50-204, 37-50-302, MCA

REASON: The board is amending this rule to specify that the board accepts the AICPA advisory scoring of the Uniform CPA Exam. The AICPA develops the exam, performs the cut score, and determines the passing level for exam section. While this is the current practice, the board had not yet outlined the provision in rule.

The board is striking (6) regarding the board's ability to contract. Contracting for services is a responsibility of the department when providing administrative services to all professional and occupational licensing boards.

24.201.528 OUT-OF-STATE LICENSEES SEEKING A MONTANA LICENSE

(1) The board may issue a license to a license holder of an active, current, and unrestricted license from ~~another~~ a substantially equivalent jurisdiction who meets the requirements established in 37-50-302, MCA, and ARM 24.201.501 and 24.201.503.

(a) files a complete application;

(b) provides verification of licensure from jurisdictions where the applicant holds or has ever held a professional license; and

(c) pays the applicable fee.

~~(2) The board may waive the education requirements and issue a license to a holder of a current, unrestricted license issued by another jurisdiction. The applicant must show they:~~

~~(a) passed the examination required for issuance of the license with grades that would have been passing grades at the time in this state;~~

~~(b) had four years of experience in the practice of public accountancy after passing the examination upon which the license was based, within the ten years immediately preceding the application;~~

~~(c) maintained a license for more than four years prior to the application for issuance of a license in this state;~~

~~(d) passed the professional ethics for CPAs course developed by the AICPA;~~

and

~~(e) fulfilled the requirements of continuing professional education established under ARM 24.201.2106.~~

(3) remains the same but is renumbered (2).

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-304, 37-50-203, ~~37-50-302~~, 37-50-309, ~~37-50-314~~, ~~37-50-325~~,
MCA

REASON: Following internal review of application requirements and procedures, board staff questioned the process for licensing individuals with active, current licenses in substantially equivalent states. These individuals previously met substantially equivalent requirements to obtain their original licenses. The board concluded it does not further public protection by requiring these applicants to submit the same documentation and meet the same requirements that have been evaluated and determined to be substantially equivalent for licensure as established by the Uniform Accountancy Act. The board is amending this rule to streamline the reciprocal licensing process and align with changes to ARM 24.201.503 and 24.201.529.

Authority and implementation citations are being amended to accurately reflect all statutes implemented through the rule and provide the complete sources of the board's rulemaking authority.

24.201.529 FOREIGN LICENSEES SEEKING A MONTANA LICENSE

(1) A foreign-licensed applicant must meet the requirements established under ARM ~~24.201.528~~ 24.201.503, or for those applicants holding a foreign accounting credential that is covered by a currently valid MRA with IQAB, meet the following requirements:

(a) met the issuing body's education requirement and passed the issuing body's examination used to qualify its own domestic applicants ~~in a foreign jurisdiction. The board will rely on the IQAB for evaluation of foreign credential equivalency or NASBA International Evaluation Services;~~

(b) remains the same.

(c) pass a uniform qualifying examination to ensure that the holder possesses adequate knowledge of national practice standards. The board may rely on the NASBA, AICPA, or other professional bodies to develop, administer, and grade such a qualifying examination; and

(d) pass the professional ethics for CPAs course developed by the AICPA; ~~and~~

~~(e) provide evidence of having met an equivalent experience requirement obtained under the supervision or direction of a chartered accountant, Instituto Mexicano de Contradores Publicos, Hong Kong Institute of Certified Public Accountants, or certified public accountant permitted to practice in the original jurisdiction in order to be issued an initial license; and~~

~~(f) meet the continuing professional education requirements established under ARM 24.201.2106, in order to be issued an initial license.~~

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-131, 37-50-203, ~~37-50-314~~, MCA

REASON: Following internal review of application requirements and procedures, board staff questioned the licensure process for applicants with foreign credentials that have been evaluated by the International Qualifications Appraisal Board and determined to have requirements equivalent to those in the U.S. resulting in a Mutual Recognition Agreement (MRA) between the foreign jurisdiction and NASBA. The board concluded it does not further public protection by requiring these applicants to submit evidence of meeting the requirements if their credential has been determined to be equivalent where an MRA exists. If a foreign-credentialed individual comes from a jurisdiction that does not have a current MRA, they can still qualify for licensure in Montana by meeting the same qualifications as other license applicants. The board is amending this rule to streamline licensure of foreign-credentialed individuals and align with changes to ARM 24.201.503 and 24.201.528.

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

24.201.532 APPLICATION REVIEW (1) All applications, except applications for firm registration, out-of-state licensees seeking a Montana license under ARM 24.201.528, and foreign applicants seeking a Montana license under ARM 24.201.529, are considered nonroutine and must be reviewed by the board.

AUTH: 37-1-131, 37-50-203, MCA

IMP: 37-1-101, 37-1-131, 37-50-203, ~~37-50-325~~, 37-50-335, MCA

REASON: The board is amending this rule to increase the types of applications that do not require board review and approval. Following staff review of application requirements and processes, the board determined that applications of those holding a license or certification from a substantially equivalent jurisdiction can be issued by staff and not require board review. The board is amending ARM 24.201.528 and 24.201.529 to provide licensure staff with clear standards and further streamline the issuance of these licenses.

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

24.201.1103 PEER REVIEW ENROLLMENT (1) and (2) remain the same.

(3) Every Montana firm that is required to enroll in a peer review program shall enroll in the ~~AICPA Peer Review Program or the MSCPA Peer Review Program or other such~~ a board-approved program that uses AICPA Standards for Performing and Reporting on Peer Reviews or standards deemed equivalent by the board.

(4) A firm's due date for its initial peer review shall be 18 months from the date it enrolled or should have enrolled in a board-approved peer review program; ~~except as provided in (5).~~

~~(5) For firms under the board's previous profession monitoring program, the board may determine that the due date for an initial peer review is earlier than the sponsoring organization's peer review standards and guidance.~~

~~(a) Firms that were under the board's previous profession monitoring program are required to enroll in a board-approved peer review program by the deadline established by the board.~~

~~(b) Firms under the pre-issuance review requirement of the board's previous profession monitoring program will remain under the board monitored pre-issuance review until the initial peer review is completed.~~

(6) remains the same but is renumbered (5).

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board was recently informed that because of changes to the AICPA Peer Review Program, the MSCPA would no longer be an administering entity. The board determined it is reasonably necessary to remove the reference to the MSCPA in the administration of peer review rules and broaden the ability for the board to approve any administering entity that administers a program utilizing the AICPA standards or equivalent as determined by the board.

The board is also amending (4) and striking (5) regarding the transition of firms from the board's previous profession monitoring program to the AICPA peer review program. Because the transition period has passed, the language is no longer necessary.

24.201.1108 ALTERNATIVES AND EXEMPTIONS (1) remains the same.

(2) Alternative programs to the board-approved peer review program of the AICPA, ~~administered by the MSCPA~~, shall include other non-AICPA programs recognized and approved by the board.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board is deleting the reference to the MSCPA administration of the AICPA peer review program after being recently notified that the MSCPA would no longer administer this program.

24.201.1109 APPROVED PEER REVIEW SPONSORING ORGANIZATIONS, PROGRAMS, AND PEER REVIEW STANDARDS (1) remains the same.

(2) The board adopts ~~the AICPA, the MSCPA, and other~~ peer review programs administered by entities fully involved in the administration of the AICPA peer review programs, as approved sponsoring organizations, without further requirements.

(3) through (5) remain the same.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: With the elimination of the MSCPA administering the AICPA peer review program, the board determined it is no longer necessary to specifically reference the AICPA and is striking reference to the MSCPA for clarity and simplicity.

24.201.2124 STANDARDS FOR CPE REPORTING (1) Licensees are responsible for accurately reporting ~~the appropriate number of CPE hours~~ and must retain appropriate documentation of their participation in learning activities.

(2) through (2)(f) remain the same.

(g) NASBA National Registry of CPE Sponsors ID (if applicable, applies to self-study and nano-learning).

(3) through (6) remain the same.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, ~~37-50-314~~, MCA

REASON: The board is amending this rule to clarify that acceptable documentation for nano-learning CPE includes a NASBA National Registry of CPE Sponsor ID. In 2017, the board added nano-learning as an acceptable CPE instruction method in MAR Notice No. 24-201-50 if it is from a NASBA National Registry of CPE sponsor. While not a new requirement, it is reasonably necessary to clarify the requirement in this rule, as well. Implementation citations are being amended to accurately reflect all statutes implemented through the rule.

24.201.2145 REPORTING REQUIREMENTS (1) Reporting of actual courses/credits is not required, unless the individual is selected for a random CPE audit as outlined in ARM 24.201.2148, or the individual must otherwise prove compliance for licensure purposes (i.e., restoring a license to active status, ~~transfer of license applicant~~).

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, ~~37-50-314~~, MCA

REASON: The board is amending this rule to no longer require reporting of actual CPE courses when license applicants are transferred. With the amendments to application processes in ARM 24.201.528 and 24.201.529, applicants will no longer need to provide CPE for licensure and this provision will no longer be necessary.

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

24.201.2154 EXTENSION OR HARDSHIP EXCEPTION (1) The board ~~has authority to~~ or its designee may grant, for a specific period of time, an extension of ~~time~~ in order to complete the basic CPE requirement, ~~or to grant a written hardship exception for a specific period of time,~~ for reasons of individual hardship (i.e. health or military service).

~~(a) (2)~~ (2) To request an extension or hardship exception, an individual must submit the appropriate form ~~and fees prior to the CPE requirement deadline of December 31.~~ The board or designee will ~~grant a hardship exception~~ evaluate the

request on a case-by-case basis.

AUTH: 37-1-319, 37-50-201, 37-50-203, MCA

IMP: 37-1-306, 37-50-203, ~~37-50-314~~, MCA

REASON: Following review of the past two CPE audit results, the board is addressing apparent confusion by clarifying the process for requesting extensions or hardship exceptions. While these amendments do not change the request process, the board intends for the changes and the elimination of the request fee from ARM 24.201.410 to further streamline the extension/hardship exception request process.

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

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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2305, or e-mail to dlibsdpac@mt.gov, and must be received no later than 5:00 p.m., August 17, 2018.

5. An electronic copy of this notice of public hearing is available at publicaccountant.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 Public Accountants, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2305; e-mailed to dlibsdpac@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. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.201.410, 24.201.415, 24.201.503, 24.201.510, 24.201.528, 24.201.529, 24.201.532, 24.201.1103, 24.201.1108, 24.201.1109, 24.201.2124, 24.201.2145, and 24.201.2154 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Public Accountants, 301 South Park Avenue, P.O. Box

200513, Helena, Montana 59620-0513; telephone (406) 841-2244; facsimile (406) 841-2305; or to dlibsdpac@mt.gov.

9. Grace Berger, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PUBLIC ACCOUNTANTS
KATHLEEN VANDYKE
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 July 10, 2018.