

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

In the matter of the amendment of)
ARM 24.201.1108 alternatives and)
exemptions, 24.201.2148 verification,)
24.201.2402 exercise of practice)
privilege in other jurisdictions,)
24.201.2410 enforcement against)
license holders and practice privilege)
holders)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On September 5, 2019, 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 29, 2019, 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:

24.201.1108 ALTERNATIVES AND EXEMPTIONS (1) Exemption of the Montana peer review requirement will apply to:

(a) remains the same.

(b) firms that only prepare financial statements ~~which do not require reports under SSARS 8 as codified in under SSARS 19 (management use only compilation reports)~~ and that perform no other attest or compilation services. Such engagements conducted by a firm that is otherwise required to participate in a peer review program shall be included in the selection of engagements subject to peer review.

(2) remains the same.

AUTH: 37-50-203, MCA

IMP: 37-50-203, MCA

REASON: The board determined it is reasonably necessary to amend (1)(b) as

preparation of services under SSARS (Statements on Standards for Accounting and Review Services) 8 and 19 were superseded by SSARS 21 in 2014 and the outdated references are no longer applicable. Removing the specific SSARS reference will eliminate the need for the board to amend rules in response to new SSARS versions while maintaining the exemption for firms that only prepare financial statements under SSARS.

24.201.2148 VERIFICATION (1) Licensees notified that they have been ~~randomly~~ selected for an audit of their basic CPE requirement must submit all courses and appropriate documentation using the NASBA CPE ~~tracking system~~ audit service and comply with the deadline for submitting documentation.

(2) remains the same.

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

IMP: 37-1-131, 37-1-306, 37-50-203, 37-50-314, MCA

REASON: The 2019 Montana Legislature enacted Chapter 50, Laws of 2019 (Senate Bill 75), an act generally revising laws related to the board and expanding continuing education audits. The bill was signed by the Governor on March 7, 2019, and became effective July 1, 2019. The board is implementing the bill by striking the limitation to audit randomly selected licensees since the legislation permits the board to perform audits on other bases when certain criteria are met.

The National Association of State Boards of Accountancy (NASBA) recently changed the platform of their CPE system and the name of the program. The board is further amending (1) to require that all audited licensees provide their information through the new NASBA CPE audit service rather than the defunct legacy system.

24.201.2402 EXERCISE OF PRACTICE PRIVILEGE IN OTHER JURISDICTIONS (1) Any registered firm or licensee of this board offering or rendering services in or to another jurisdiction pursuant to practice privilege, based upon their registration or license from this board, is deemed to have consented to the administrative jurisdiction of the other board of accountancy.

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

IMP: 37-50-325, MCA

REASON: The 2017 Montana Legislature enacted Chapter 162, Laws of 2017 (House Bill 500), an act changing registration requirements for nonresident accountants. Following the bill's July 1, 2017, effective date, board staff considered the bill's changes to firm mobility and recommended the board amend this rule to notify registered firms that by practicing under the practice privilege, they agree to recognize the jurisdiction of the other board of accountancy above their Montana firm registration. The board agreed with the suggestion and is amending this rule to clarify registered firm jurisdiction and reduce questions to the board office.

24.201.2410 ENFORCEMENT AGAINST LICENSE HOLDERS AND PRACTICE PRIVILEGE HOLDERS (1) The following terms may be cause for imposition of disciplinary action:

(a) remains the same.

(b) failure of a Montana firm or a firm using practice privilege to comply with the peer review rules of subchapter 11;

(c) through (e) remain the same.

(f) noncompliance with the basic CPE requirement established in ARM 24.201.2106, prior to the department administering the provisions of 37-1-321, MCA, for more than one audit in a five-year period;

(f) remains the same but is renumbered (g).

(h) failure of a Montana firm or a firm using practice privilege to comply with ownership requirements;

(g) through (i) remain the same but are renumbered (i) through (k).

(j) (l) failure of any firm or individual using the practice privilege in Montana to qualify for such practice privilege;

(k) (m) failure of any firm or individual using the practice privilege in Montana to notify this board of any suspension, revocation, termination, or discipline of the license in any jurisdiction in which the firm or individual practices;

(l) (n) failure of a Montana firm or licensee who is using the practice privilege in another jurisdiction to cooperate with another jurisdiction's board of accountancy's investigation into acts of the licensee in that other jurisdiction; or

(m) remains the same but is renumbered (o).

(i) remains the same.

AUTH: 37-1-131, 37-1-136, 37-1-319, 37-50-203, MCA

IMP: 37-1-136, 37-1-316, 37-1-319, 37-1-321, 37-50-203, 37-50-325, 37-50-330, 37-50-335, MCA

REASON: The board is amending (1)(b), (h), and (l) through (n) to include failure to comply with statutory requirements by registered firms or firms practicing in Montana through mobility as a basis for board disciplinary action. Montana requires peer review for performing certain levels of services and specific ownership requirements of all firms practicing in the state. The board concluded it is reasonably necessary to amend this rule to align with the 2017 statutory changes on firm mobility in House Bill 500 that relieved certain out-of-state firms from registering but did not relieve them from complying with Montana firm requirements. The board concluded these changes will enhance public protection by having the same enforcement ability over firms practicing here through practice privilege as with Montana registered firms.

The board is adding new (1)(f) to allow disciplinary action against licensees who repeatedly fail a CPE audit within a five-year period. Recent CPE audits demonstrated that large numbers of licensees were noncompliant with CPE requirements. Based on the audits, the board determined it is reasonably necessary to amend this rule to outline the specific circumstances when the department may refer a CPE deficiency for disciplinary proceedings per 37-1-321(7), MCA.

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., September 6, 2019.

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, apply and have been fulfilled. Regarding 2017 House Bill 500, Representative Hertz was contacted by e-mail on July 3, 2018 and May 16, 2019, by telephone on May 16, 2019, and by regular mail on May 17, 2019. Regarding 2019 Senate Bill 75, Senator Vuckovich was contacted by telephone and by e-mail on May 16, 2019, and by regular mail on May 17, 2019.

8. Regarding the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.201.1108, 24.201.2148, 24.201.2402, and 24.201.2410 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
RANETTA JONES, CPA
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 30, 2019.