

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

In the matter of the amendment of)	NOTICE OF AMENDMENT AND
ARM 24.174.401 fee schedule,)	REPEAL
24.174.507 military training or)	
experience, 24.174.524 collaborative)	
practice agreement requirements,)	
24.174.602 internship requirements,)	
24.174.604 preceptor requirements,)	
24.174.612 required forms and)	
reports, 24.174.701 registration)	
requirements, 24.174.703 use of)	
pharmacy technician, 24.174.711 ratio)	
of pharmacy technicians to)	
supervising pharmacists, 24.174.835)	
transfer of prescriptions, 24.174.2104)	
registered pharmacist continuing)	
education—requirements, and the)	
repeal of 24.174.702 qualifications of)	
pharmacy technician, 24.174.2101)	
pharmacies—annual renewal,)	
24.174.2102 pharmacy technician—)	
renewal, 24.174.2103 renewals,)	
24.174.2107 registered pharmacist)	
continuing education—noncompliance)	

TO: All Concerned Persons

1. On July 5, 2019, the Board of Pharmacy (board) published MAR Notice No. 24-174-71 regarding the public hearing on the proposed amendment and repeal of the above-stated rules, at page 935 of the 2019 Montana Administrative Register, Issue No. 13.

2. On July 26, 2019, a public hearing was held on the proposed amendment and repeal of the above-stated rules in Helena. Several comments were received by the August 2, 2019, 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 expressed support for the entirety of the proposed amendments.

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

COMMENT 2: Several commenters supported the amendment to the fee schedule at ARM 24.174.401 regarding how technicians-in-training are licensed and related to changes to ARM 24.174.701 and 24.174.703. The commenters suggested the board allow at least one extension request for the new license type of temporary certified pharmacy technician. This extension would allow for 24 months or more to complete the required certification before the temporary license expires.

RESPONSE 2: The board concluded that the suggested amendments to allow for an additional 12-24-month extension of the proposed 12-month temporary certified pharmacy technician license is beyond the scope of the proposed amendments and may not be accomplished in a final notice. The board previously considered the proposed 12-month expiration date and may consider additional amendments if needed in the future.

The board notes that the issuance of a temporary certified pharmacy technician license is intended to be utilized one time and is valid for no more than 12 months. If a temporary licensee successfully passes a certification exam, they must notify the board for the temporary license to be transitioned to a full certified pharmacy technician license which must be renewed annually. If a temporary licensee fails to successfully complete a pharmacy technician certification exam prior to the expiration date of the temporary license, there is no authority for an extension request. In such a case, an individual may apply for a certified pharmacy technician license once they have successfully obtained certification pursuant to ARM 24.174.701.

COMMENT 3: Several commenters expressed support for the amendments to the collaborative practice agreement requirements at ARM 24.174.524 and stated the changes will reduce administrative burden on pharmacies.

RESPONSE 3: The board appreciates all comments received during the rulemaking process.

COMMENT 4: Several commenters supported the amendment removing interns from the pharmacist to technician ratio at ARM 24.174.711. While the commenters appreciated changing the ratio from 1:3 to 1:4, they requested the board instead expand it from 1:3 to 1:6 or remove the ratio entirely. The commenters provided examples and documents from other states having either a greater ratio or no ratio and asserted that utilizing technicians more will allow pharmacists more time to provide patient care services.

RESPONSE 4: The board determined that further increasing the ratio beyond 1:4 is a substantive change that cannot be accomplished in a final notice. The board discussed expanding the ratio during multiple board meetings prior to filing the proposal to expand to 1:4. Further, the board notes that the proposed amendment expands the ratio by 1 and removes interns from the ratio, which may lead to many pharmacy locations gaining two technicians per pharmacist.

COMMENT 5: Several commenters expressed support for the proposed changes to ARM 24.174.835 and offered additional amendments, including expanding technician duties to allow completion of prescription transfers verbally, removing the requirement to keep a nonfading hardcopy record of each prescription drug order transferred, and adding "if any" or "if applicable" to the information the receiving pharmacy shall receive and maintain, in ARM 24.174.835(2) and (3).

RESPONSE 5: The board reviewed additional changes regarding transfer of prescriptions, including technician duties, hardcopy documentation requirements, and information received by a pharmacy. The board has discussed potential changes to technician duties and may consider such amendments in the future. While reviewing the information received by a pharmacy, the board offered and approved a technical correction amendment to clarify current practice. However, the board is unable to make such substantive changes in a final notice as they are beyond the scope of the proposed amendments. The board will consider additional revisions to prescription transfer requirements as amendments to general documentation and record-keeping requirements are drafted in future projects.

4. The board has amended ARM 24.174.401, 24.174.507, 24.174.524, 24.174.602, 24.174.604, 24.174.612, 24.174.701, 24.174.703, 24.174.711, 24.174.835, and 24.174.2104 exactly as proposed.

5. The board has repealed ARM 24.174.702, 24.174.2101, 24.174.2102, 24.174.2103, and 24.174.2107 exactly as proposed.

BOARD OF PHARMACY
TONY KING, PharmD
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 September 10, 2019.