

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

In the matter of the amendment of) NOTICE OF PUBLIC HEARING ON
ARM 24.174.1712 pertaining to the) PROPOSED AMENDMENT
prescription drug registry fee)

TO: All Concerned Persons

1. On March 31, 2017, at 10:00 a.m., a public hearing will be held in Room 496, 301 South Park Avenue, 4th Floor, Helena, Montana, to consider the proposed amendment of the above-stated rule.

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 Pharmacy (board) no later than 5:00 p.m., on March 24, 2017, to advise us of the nature of the accommodation that you need. Please contact Marcie Bough, Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2371; Montana Relay 1 (800) 253-4091; TDD (406) 444-2978; facsimile (406) 841-2344; or dlibsdp@mt.gov (board's e-mail).

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

24.174.1712 PRESCRIPTION DRUG REGISTRY FEE (1) remains the same.

(2) ~~The fee shall be paid annually to the board.~~ The fee is considered a renewal fee and shall be collected by the department when the license is renewed.

(3) ~~Upon payment of the fee, the board shall issue authorized prescribers and dispensers a controlled substances registration.~~ A licensee who is not authorized to prescribe or dispense controlled substances is not required to pay the fee.

(4) The annual prescription drug registry fee is \$~~15~~ 30.

AUTH: 37-1-134, 37-7-1511, 37-7-1512, MCA

IMP: 37-1-134, 37-1-141, 37-7-1511, 37-7-1512, MCA

REASON: The board determined it is reasonably necessary to amend this rule to align with revisions made in the 2015 Legislature regarding who pays the Montana Prescription Drug Registry (MPDR) fee and the fee amount, and to clarify how the fee is collected. In addition, the 2017 Legislature further extended the authority for the board to collect the MPDR fee through June 2019.

In 2015, the Montana Legislature, through Senate Bill 7, amended 37-7-1511, MCA, to clarify who pays the MPDR fee, increase the annual fee from \$15 to \$30,

and extend the authority to collect the MDPR fee to June 30, 2017. In September 2015, collection of the annual MPDR fee was integrated into the department's existing online and paper license renewal processes to improve efficiencies and utilize existing department procedures. Such revisions also reflected stakeholder and licensee feedback to remove the separate MPDR fee invoice that had been used in 2013 and 2014.

In 2017, the Legislature, through Senate Bill 56, amended 37-7-1511, MCA, to further extend the MPDR fee termination date to June 30, 2019, thus providing authority for the board to continue collecting the MPDR fee.

The amendment clarifies that the annual MPDR fee is collected when a licensee renews their license and that the fee is to be considered a renewal fee. Such clarification helps address how MPDR fees are processed within the department. In addition, the current rule incorrectly states that the fee authorizes access to the registry. Instead, access is granted to licensees authorized in 37-7-1506, MCA, who complete the online MPDR registration process. Therefore, the board is removing the language in (3) and replacing it with information indicating who is not required to pay the MPDR fee, as indicated in 37-7-1511, MCA.

The MPDR is funded through a combination of fees and federal grants for an operating budget of approximately \$468,000 in Fiscal Year (FY) 2017. The board expects to continue receiving MPDR fee payments from a combination of board licensees who renew either annually or biennially. The board estimates that approximately 8,000 licensees per year will be impacted by the fee increase, and result in an estimated annual revenue increase of \$120,000. The average revenue projection accounts for an estimated 20 percent of licensees continuing to attest that the fee does not apply to them and therefore do not pay the MPDR fee at the time of license renewal.

The MPDR fee is currently assessed to the following license types at time of license renewal: pharmacist, physician, resident physician, physician assistant, dentist, optometrist, podiatrist, naturopathic physician, and advance practice registered nurse with prescriptive authority.

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.

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 Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513, by facsimile to (406) 841-2344, or e-mail to dlibsdpba@mt.gov, and must be received no later than 5:00 p.m., April 7, 2017.

5. An electronic copy of this notice of public hearing is available at pharmacy.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 Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2344; e-mailed to dlibsdp@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. The primary bill sponsor was contacted on January 4, 2017, by e-mail, and on January 5, 2017, by telephone.

8. With regard to the requirements of 2-4-111, MCA, the board has determined that the amendment of ARM 24.174.1712 will not significantly and directly impact small businesses.

Documentation of the board's above-stated determination is available upon request to the Board of Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; telephone (406) 841-2371; facsimile (406) 841-2344; or to dlibsdp@mt.gov.

9. Marcie Bough, Executive Officer, has been designated to preside over and conduct this hearing.

BOARD OF PHARMACY
STARLA BLANK, RPh
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 27, 2017.