

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

In the matter of the amendment of)
ARM 24.174.401 fee schedule,)
24.174.602 internship requirements,)
and 24.174.605 foreign intern)
requirements)

NOTICE OF PUBLIC HEARING ON
PROPOSED AMENDMENT

TO: All Concerned Persons

1. On August 25, 2017, at 10:00 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 Pharmacy (board) no later than 5:00 p.m., on August 18, 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 dlibsdpba@mt.gov (board's e-mail).

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

<u>24.174.401 FEE SCHEDULE</u>	
(1) Application for licensure transfer	\$ 300 <u>180</u>
(2) Original registration for pharmacist	120 <u>70</u>
(3) Pharmacist annual renewal fee	110 <u>65</u>
(4) and (5) remain the same.	
(6) Certified pharmacy original certification (includes original, change in location, and change in ownership)	400 <u>240</u>
(7) Certified pharmacy annual renewal fee	250 <u>150</u>
(8) Family planning limited pharmacy facility, certified pharmacy license, (original and renewal)	75 <u>45</u>
(9) Intern registration	80 <u>50</u>
(10) and (11) remain the same.	
(12) Utilization plan approval fee	200 <u>75</u>
(13) Annual utilization plan renewal fee	400 <u>75</u>
(14) Pharmacy technician and technician-in-training registration fee	60 <u>35</u>
(15) Pharmacy technician renewal fee	50 <u>30</u>
(16) Wholesale drug distributor license	400 <u>240</u>

(17) Annual wholesale drug distributor renewal	400 <u>240</u>
(18) Out-of-state mail service pharmacy/telepharmacy initial license	400 <u>240</u>
(19) Out-of-state mail service pharmacy/telepharmacy renewal	400 <u>240</u>
(20) remains the same.	
(21) Inactive pharmacist annual renewal fee	25 <u>15</u>
(22) Outpatient center for surgical services (original or renewal)	75 <u>45</u>
(23) Additional standardized fees are specified in ARM 24.101.403.	

AUTH: 37-1-134, 37-7-201, 50-32-314, MCA

IMP: 37-1-134, 37-7-201, 37-7-302, 37-7-306, 37-7-321, 37-7-604, 37-7-605, 37-7-703, 50-32-314, MCA

REASON: The board determined it is reasonably necessary to amend this rule to reduce fee revenue collected from licensees. The board is required to comply with statutory requirements that the board's cash balance not exceed twice the annual appropriation amount, as outlined in 17-2-302 and 17-2-303, MCA. The board is proposing to reduce individual and facility license application and renewal fees by 40% and the technician utilization plan endorsement application and renewal fees to \$75 to comply with allowable cash by the end of fiscal year (FY) 19.

The board and the department have been aware of the excess cash balance since FY 13 when the cash balance was reduced by abating individual and facility renewal fees by 50%, pursuant to ARM 24.174.404. Additionally, renewal fees were abated in FY 13, 15, 16, and FY 17. However, the reduction in the excess cash balance has not been realized to the extent the board and the department expected, largely due to the increase in facility applications over the past several years. Additionally, the total number of board licensees has increased from 3,711 in 2012 to 6,265 in 2017.

The projected FY 18 budget and appropriated spending authority for the board is \$942,022. With the proposed fee reductions, the projected ending cash balance for FY 18 is expected to be \$2,010,502, which will exceed the allowable cash balance of \$1,884,044 (two times the appropriated amount). With the proposed fee changes, the board expects to come into compliance by the end of FY 19 with a cash balance of approximately \$1,863,000. If projected budget and allowable cash balances are not realized, or if the cash balance appears to be decreasing too much, the board will consider further amendments to the fees, including fees that are not changing now.

The board estimates that the proposed fee reductions will affect 6,250 licensees and 1,000 applicants and result in a \$475,000 decrease in annual revenue.

24.174.602 INTERNSHIP REQUIREMENTS (1) through (10) remain the same.

- (11) An intern registration may be issued to a student who:
 - (a) is currently enrolled in an accredited pharmacy program ~~at any time after they have completed 30 days of study;~~
 - (b) has submitted a completed application to the board; ~~and~~

- (c) has paid the required fee; and
 - (d) has completed at least one day of the accredited pharmacy program.
- (12) through (14) remain the same.

AUTH: 37-7-201, MCA
IMP: 37-7-201, MCA

REASON: The board determined it is reasonably necessary to amend this rule regarding qualifications for pharmacist intern licenses. Currently, applicants must complete 30 days of an accredited pharmacy program to obtain an intern license. The board agrees with the University of Montana Skaggs School of Pharmacy (school) that issuing these licenses earlier will help facilitate opportunities for student pharmacists to provide direct patient care sooner, with corresponding oversight by pharmacist preceptors.

Additionally, incoming students will soon be required to start immunization education and training procedures in the summer prior to beginning pharmacy school. The board concluded this will help ensure students are ready for patient care opportunities and further mitigates the need for waiting 30 days for a pharmacist intern license. Student pharmacists who have already completed immunization training and certification at the time of application can submit the immunization certificate and have the immunization endorsement included at the time the board issues the individual pharmacist intern license.

The board reviewed intern licensing requirements from other states and determined most states do not have a 30-day requirement and issue intern licenses at the start of the pharmacy program. To ensure that a current student is enrolled in an accredited pharmacy program, the board decided that intern licenses may be issued after completion of at least one day of class.

24.174.605 FOREIGN INTERN REQUIREMENTS (1) A graduate of a foreign school of pharmacy seeking licensure to practice as a pharmacy intern in the state of Montana shall:

~~(a) take the Foreign Pharmacy Graduate Equivalency Exam (FPGEE);~~
(a) submit proof of a Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification from the National Association of Boards of Pharmacy (NABP),
which includes the following:

~~(b) (i) take the Test of Spoken English (TSE); and one of the following:~~
~~(i) (ii) take the computer-based Test of English as a Foreign Language (TOEFL); and~~

~~(ii) take the paper-based TOEFL; or~~

~~(iii) take the internet-based TOEFL;~~

(iii) Foreign Pharmacy Graduate Equivalency Exam (FPGEE);

(c) through (e) remain the same but are renumbered (b) through (d).

(2) through (4) remain the same.

AUTH: 37-1-131, 37-7-201, MCA
IMP: 37-7-201, MCA

REASON: The board is amending this rule to align with requirements for pharmacist foreign graduates in ARM 24.174.501. The board expects that any pharmacist foreign graduate applying as an intern to complete internship hours in Montana meets the same requirements as a pharmacist foreign graduate applying for pharmacist licensure. Further, the board concluded that these amendments will improve transparency in licensure qualifications and the overall application process when foreign graduate intern licensees apply for pharmacist licensure.

Following the amendments, applicants will need to submit proof of the National Association of Boards of Pharmacy Foreign Pharmacy Graduate Examination Committee (FPGEC) Certification. The certificate requires completing already required examinations, but applicants must also meet passing standards set forth by the requirements of the FPGEC Certification.

The board has issued few foreign graduate intern licenses in the past several years but determined it is reasonably necessary to amend this rule to ensure consistency with existing pharmacist foreign graduate licensing requirements.

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., September 1, 2017.

5. An electronic copy of this notice of public hearing is available at pharmacy.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 Pharmacy, 301 South Park Avenue, P.O. Box 200513, Helena, Montana 59620-0513; faxed to the office at (406) 841-2344; e-mailed to dlibsdpba@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 24.174.401, 24.174.602, and 24.174.605 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 July 24, 2017.